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Comptroller of the Currency
Consumer and Marketing Service
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Tariff Commission

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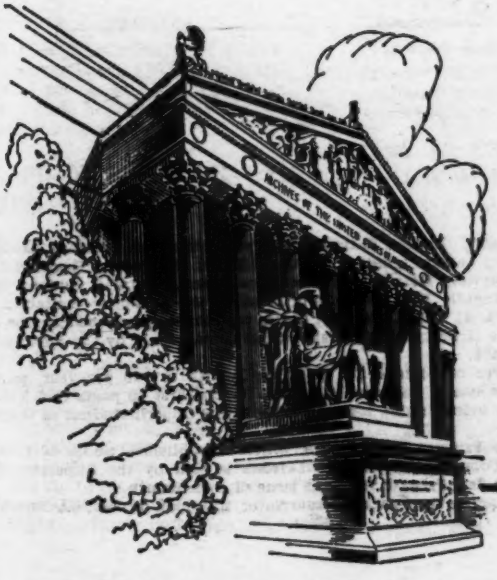

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1949–1963

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

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Title 7—AGRICULTURE

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 125]

PART 1125—MILK IN PUGET SOUND, WASH., MARKETING AREA

Order Amending Order

§ 1125.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Puget Sound, Wash., marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than September 1, 1967. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued April 7, 1967, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued July 17, 1967. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective September 1, 1967, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (5 U.S.C. 553(d) (1966))

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8(c)(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum in which each individual producer had one vote and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the following provisions are substituted for specified order provisions as indicated below, and the handling of milk in the Puget Sound, Wash., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended, through December 31, 1969, as follows:

Class I base plan provisions. 1. Section 1125.110 is substituted for § 1125.17 as follows:

§ 1125.110 Production history base and Class I base.

(a) "Production history base" means a quantity of milk in pounds per day produced by a producer in a past period as computed pursuant to § 1125.120.

(b) "Class I base" means a quantity of milk in pounds per day as computed pursuant to § 1125.121 for which a producer may receive the base milk price.

2. Section 1125.111 is substituted for § 1125.18 as follows:

§ 1125.111 Base milk and excess milk.

(a) "Base milk" means:

(1) Milk received from a producer which is not in excess of his Class I base multiplied by the number of days in the month, except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month;

(2) Milk received from a producer to whom no Class I base has been issued, in the amount assigned pursuant to § 1125.122(b)(1); and

(3) Milk received from a producer to whom a Class I base has been issued, in the amount assigned pursuant to § 1125.122(b)(2).

(b) "Excess milk" means milk received from a producer during the month that is in excess of base milk received from such producer during the month.

3. Section 1125.22(k)(2) is substituted for the present § 1125.22(k)(2), as follows:

§ 1125.22 Duties.

* * * * * * *

(k) * * *

(2) On or before the 13th day of each month, the weighted average and uniform prices computed pursuant to §§ 1125.71 and 1125.72, the location adjustment for excess milk computed pursuant to § 1125.81(a)(2), and the butterfat differential computed pursuant to § 1125.82, each applicable to milk received during the preceding month;

* * * * * * *

4. In § 1125.35(a), subparagraph (7) is added as follows:

§ 1125.35 Handler report to producers.

(a) * * *

(7) The Class I and Class II prices for 3.5 percent milk, and the marketwide percentage of producer milk utilized in each class during the month.

* * * * * * *

5. Section 1125.81(a)(2) is substituted for the present § 1125.81(a)(2) as follows:

§ 1125.81 Location adjustment to producers and on nonpool milk.

(a) * * *

(2) There shall be added to the uniform price for excess milk received from producers at plants located in District 1 or in the counties of Kitsap, Mason, or Pierce, a location adjustment not to exceed 25 cents per hundredweight, rounded to the nearest full cent, computed by dividing the amount computed

pursuant to § 1125.54(c) by the total hundredweight of excess milk received at such plants.

* * * * *

6. Sections 1125.120, 1125.121, 1125.122, 1125.123, and 1125.124 are substituted for §§ 1125.60 and 1125.61 as follows:

§ 1125.120 Computation of production history bases.

The market administrator shall determine production history bases computed as follows:

(a) For each producer who delivered milk on 120 days or more during the months of August through December 1966, such production history base shall be the highest of:

(1) The total pounds of producer milk delivered by such person to a handler on 120 days or more during the months of August 1966 through December 1966, inclusive, divided by the number of days from the date of his first delivery within such period to the end of such 5-month period;

(2) The amount similarly computed with respect to such person's deliveries, during the months of August 1965 through December 1965, inclusive; or

(3) The amount similarly computed with respect to such person's deliveries during the months of August 1964 through December 1964, inclusive.

(b) For each person who held designation as a producer-handler for 120 days or more in the months of August through December 1966, the production history base shall be the daily average of his own production of milk for 120 days or more in the months of August through December 1964, August through December 1965, and August through December 1966, whichever is highest.

(c) Each person who becomes a producer as a result of a plant to which he delivers milk becoming a pool plant under the order pursuant to § 1125.8 shall have a production history base computed as though his deliveries of Grade A milk to such plant in the prior periods used for determining bases specified in paragraph (a) of this section had been deliveries of producer milk.

(d) With respect to computation of such bases the following rules shall apply:

(1) If a producer operated more than one farm at the same time during any specified August–December period, a separate computation shall be made with respect to producer milk delivered from each such farm for such period except that only one computation shall be made with respect to milk production resources and facilities of a producer-handler specified in § 1125.14(b)(1);

(2) Only one base shall be allotted with respect to milk produced by one or more persons where the land, buildings and equipment used are jointly owned or operated.

(3) Deliveries of milk during the months of August through December 1966 from a farm currently operated by a person who since August 1, 1966, has received a base by transfer pursuant to § 1125.61(a) shall be considered to be deliveries of the current operator for purposes of computation of production history base, and no production history base shall be computed for any other person from deliveries of milk from such farm.

(4) Deliveries of milk from a farm for which the producer has lost a base pursuant to § 1125.61(b) since February 1, 1967, shall not be used to compute a production history base for such producer.

§ 1125.121 Computation of Class I base for producers with production history bases.

(a) Each producer for whom a production history base pursuant to § 1125.120 (a) or (b) may be computed and who delivered milk regularly to a handler in May 1967 shall be issued Class I base as follows:

(1) The total of the Class I bases to be issued to such persons shall be the sum of:

(i) The average daily dispositions pursuant to § 1125.41(a) of producer milk for the year 1966 multiplied by 1.20; and

(ii) The total of the average daily dispositions of milk of their own production for the year 1966 by any such persons then holding designation as producer-handlers, multiplied by 1.20.

(2) The Class I base for each such person shall be determined by multiplying his production history base by a percentage rounded to the third decimal place obtained by dividing the total of Class I bases pursuant to subparagraph (1) of this paragraph by the sum of the production history bases issued to such producers.

(b) The Class I base for each person to whom no Class I base has been issued pursuant to paragraph (a) or (c) of this section who held designation as a producer-handler in May 1967 which is no longer effective, and who has become a producer shall be the production history for such person computed pursuant to § 1125.120 (a) or (b), multiplied by the percentage specified in paragraph (a)(2) of this section. Such Class I base shall not be in effect for such person for any month for which such person holds designation as a producer-handler.

(c) The Class I base of each person for whom a production history base is determined pursuant to § 1125.120(c) shall be his production history base multiplied by the percentage specified in paragraph (a)(2) of this section.

§ 1125.122 Computation of base milk for new producers and hardship cases.

For each month a quantity of base milk shall be computed for each producer who does not hold a production history base pursuant to § 1125.120 and a quantity of additional base milk shall be computed for each producer to whom a "hardship" adjustment has been issued as follows:

(a) Compute the sum of:

(1) 1.20 times the pounds by which producer milk classified as Class I exceeds the sum of the following in the corresponding month of 1966:

(i) The pounds of producer milk classified as Class I;

(ii) The Class I disposition of producers with Class I bases who then held designation as producer-handlers; and

(iii) The Class I disposition of milk by pool plants described in § 1125.120(c); and

(2) The pounds by which the current monthly total of Class I bases issued to producers exceeds the total of base milk delivered pursuant to § 1125.111(a)(1) in the month.

(b) Assign the resulting pounds, if any, as base milk pro rata to:

(1) The pounds of milk delivered during the month by each producer without a daily base; and

(2) The pounds of milk delivered by a producer to whom a hardship adjustment is issued, that are the lesser of:

(i) The pounds of such adjustment times the number of days in the month; or

(ii) The pounds by which total deliveries of milk in the month by such producer exceed base milk pursuant to § 1125.111(a).

§ 1125.123 Base rules.

The following rules shall be observed in the determination of bases:

(a) A Class I base or a portion of a Class I base may be transferred from one person to another if the conditions listed below are met:

(1) The market administrator is notified in writing by the holder of the Class I base on or before the last day of the month of transfer of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer and the amount of Class I base to be transferred if less than the entire Class I base held by the transferor;

(2) It is established to the satisfaction of the market administrator that the conveyance of such base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this paragraph;

(3) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer);

(4) A transfer of Class I base may not be made in amounts of less than 100 pounds, or the entire base, whichever is smaller;

(5) A transfer of a portion of a Class I base shall be a partial transfer and shall be effective only on the first day of a month. A transfer where the transferee producer will combine the Class I base received with Class I base already held shall be considered a partial transfer;

(6) A transfer of a complete Class I base of a producer to a person who does not already hold a Class I base will be effective on the date of transfer of herd

and farm, or on the date specified if no herd and farm is transferred;

(7) A person who has received Class I base by transfer pursuant to subparagraph (5) or (6) of this paragraph within the preceding 12-month period may not further transfer all or a portion of his Class I base except as permitted under the provisions of § 1125.124;

(8) A person who was issued hardship adjustment pursuant to the provisions of § 1125.124 may not transfer all or a portion of his Class I base to another person until 2 years after the hardship adjustment was issued. Such hardship adjustments are not transferable;

(9) Class I base issued pursuant to § 1125.121(c) may not be transferred in whole or in part for a period of 2 years after it was issued to any person other than a member of the baseholder's immediate family who continues delivery of producer milk from the same farm from which such baseholder delivered producer milk; and

(10) Class I base issued pursuant to 1125.121(b) may not be transferred in whole or in part unless such transfer is to a member of the baseholder's immediate family who continues delivery of producer milk from the same farm from which such baseholder delivered producer milk for a period of 2 years from the date upon which the producer to whom it was issued last held designation as a producer-handler.

(b) If a producer delivers milk for fluid use other than as diverted producer milk to a plant not regulated under this Part 1125, which is engaged in distribution of fluid milk products to wholesale or retail outlets or in supplying fluid milk products to a plant so engaged, such producer shall have his base milk reduced by an amount equal to his Class I base for each day's production from which any such deliveries were made to such nonpool plant during the month.

(c) A person who discontinues deliveries of producer milk for a period of 60 consecutive days after a Class I base is issued to him shall forfeit any Class I base held pursuant to the provisions of this order, except that a person entering military service may retain his Class I base until 1 year after being released from active military duty.

(d) As soon as production history bases and Class I bases are computed by the market administrator notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk, and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place in his plant a list or lists showing the Class I base of each producer whose milk is received at such plant.

(e) Only one quantity of base milk pursuant to either § 1125.111 (a) (1) or (3) shall be computed with respect to milk produced by one or more persons where the land, buildings and equipment used, are jointly owned or operated.

(f) A producer who transfers Class I base computed pursuant to § 1125.121 shall have his production history base reduced in the same proportion that the Class I base transferred was of the total Class I base held by the transferor producer.

(g) As a condition for designation as a producer-handler pursuant to § 1125.14, of any person who has held Class I base any time during the 12-month period preceding such designation or of any member of the immediate family of such a person, or of any affiliate of such a person, or of any business unit of which such a person is a part, such baseholder shall forfeit Class I base in an amount equal to the highest amount held at any time during such 12-month period.

§ 1125.124 Relief from hardship or inequity.

Requests of producers for relief from hardship or inequity arising under the provisions of § 1125.120 through § 1125.123 will be subject to the following:

(a) A producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base pursuant to § 1125.121;

(2) His production history base pursuant to § 1125.120 is alleged to not be representative of his level of milk production in the base period due to a loss of milk production beyond the control of the producer such as loss of buildings, herds, or other facilities by fire, flood, or storms, official quarantine, or military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1125.123 (b) or (c); and

(4) Inability to transfer base due to the provisions of § 1125.123(a) (7), (8), (9) or (10);

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1125.123(d) with respect to requests pursuant to paragraph (a)(1) or (2) of this section, or not later than 45 days after the occurrence with respect to requests pursuant to paragraph (a) (3) or (4) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more Producer Base Committees shall be established and function as follows:

(1) Each Producer Base Committee shall consist of five producers appointed by the market administrator.

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), or (4) of this section, either reject such request or indicate the nature and extent to which the producer shall be granted exception to the provisions involved and the effective date thereof.

(ii) With respect to requests pursuant to paragraph (a)(2) of this section, either reject the request or provide adjustment in the form of a daily quantity of "hardship" adjustment milk which when delivered in excess of such producer's Class I base, may be included in the computation of base milk pursuant to § 1125.122 and the effective date thereof. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(*a*) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(*b*) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;

(4) Recommendation of the Producer Base Committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director, Dairy Division within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmittal.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1125.88 for their services at $20.00 per day or portion thereof, plus necessary travel and subsistence expenses incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: September 1, 1967.

Signed at Washington, D.C., on August 15, 1967.

JOHN A. SCHNITTKER,
Acting Secretary.

[F.R. Doc. 67-9764; Filed, Aug. 17, 1967; 8:49 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1967–Crop Dry Edible Bean Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1967 Crop Dry Edible Bean Loan and Purchase Program

The General Regulations Governing Price Support for the 1964 and Subsequent Crops (Revision 1) (31 F.R. 5941) and the 1966 and Subsequent Crops Dry Edible Bean Supplement (31 F.R. 6904), which contain regulations of a general nature with respect to price support operations, are further supplemented for 1967 crop dry edible beans as follows:

Sec.
1421.2480 Purpose.
1421.2481 Availability.
1421.2482 Maturity of loans.
1421.2483 Support rates.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 68 Stat. 1053, 15 U.S.C. 714c, 7 U.S.C. 1421, 1441.

§ 1421.2480 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1964 and Subsequent Crops (Revision 1) and any amendments thereto or revisions thereof, and the 1966 and Subsequent Crop Dry Edible Bean Supplement and any amendments thereto, apply to loans and purchases for 1967 crop dry edible beans.

§ 1421.2481 Availability.

A producer desiring a price support loan must request a loan on his eligible beans on or before March 31, 1968. To obtain price support through a sale to CCC, a producer must give the appropriate ASCS county office notice of his intent to sell his eligible beans to CCC on or before the loan maturity date specified in § 1421.2481.

§ 1421.2482 Maturity of loans.

Unless demand is made earlier, loans on dry edible beans will mature on April 30, 1968.

§ 1421.2483 Support rates.

The support rate for beans placed under a loan other than a loan on beans stored commingled in an approved warehouse shall be the applicable basic support rate specified in paragraph (a) of this section for the county in which the beans were produced, adjusted as provided in paragraph (d) of this section. The support rate for loans on beans stored commingled in approved warehouse storage and for settlement of all loans and purchases shall be the applicable basic support rate specified in paragraph (a) of this section for the county in which the beans were produced, (1) adjusted in accordance with paragraphs (b), (c), and (d) this section, and (2) adjusted also, in the case of settlements, by such discounts as CCC may establish for class, grade, and quality factors not specified in this section which affect the value of the beans, such as (but not limited to) splits, damage, contrasting classes, and foreign material. The discounts established for the purposes of settlement will be based upon the market discounts for such factors at the time the beans are delivered to CCC, as determined by CCC. Producers may obtain schedules of such factors and discounts at ASCS county offices approximately one month prior to the loan maturity date. Except in the case of large lima beans, if the beans have been moved by truck to approved storage in a higher support rate county, or if the warehouse guarantees delivery by truck to approved storage or on track in a higher support rate county, the support rate shall be determined on the basis of the basic support rate specified in paragraph (a) of this section for the county in which the beans are stored or to which delivery is guaranteed, rather than the county in which the beans were produced. Settlement shall be made in accordance with the provisions of § 1421.72.

(a) *Basic county support rates.* The basic county support rates per 100 pounds net weight for beans of all classes grading U.S. No. 1 are as follows:

Class and area	Rate per 100 pounds U.S. No. 1 in jute bags
Pinto:	
Area I—In New Mexico, all counties except McKinley, Rio Arriba, San Juan, Taos and Valencia	$6.57
Area II—Kansas, Nebraska, Oklahoma, and Texas. In Colorado, the counties of Larimer, Boulder, Gilpin, Clear Creek, Jefferson, Teller, Fremont, Pueblo, Huerfano, and Las Animas and all counties east thereof in Colorado. In Wyoming, the counties of Goshen, Laramie, and Platte	6.47
Area III—In New Mexico, the counties of McKinley, and Valencia	6.37
Area IV—Arizona, California, South Dakota, and Utah. In Wyoming, all counties not in Area II. In Colorado, all counties not in Area II. In New Mexico, the counties of Rio Arriba, San Juan, and Taos	6.27
Area V—Idaho and Montana	6.17
Area VI—Washington	5.97
Area VII—Other States	6.07
Great Northern:	
Area I—Nebraska, Minnesota, and North Dakota. In Colorado, all counties east of 106° longitude. In Wyoming, the counties of Goshen, Laramie, and Platte	7.21
Area II—South Dakota. In Wyoming, all counties not in Area I	7.01
Area III—Montana and Idaho. In Oregon, Malheur County	6.91
Area IV—Other States and counties	6.71
Pea (Navy) and Medium White:	
Area I—Michigan, New York, Maine, Minnesota, and Wisconsin	$6.65
Area II—Other States	6.15
Small White and Flat Small White	7.52
Dark Red Kidney	8.51
Light and Western Red Kidney	8.70
Pink	7.32
Small Red:	
Area I—Idaho and Colorado	7.47
Area II—Washington	7.37
Area III—Other States	7.42
Large Lima:	
Area I—In California, the counties of Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, and San Diego	10.39
Area II—Other counties in California	10.24
Baby Lima	5.59

(b) *Premium.*

	Cents per 100 pounds
Grade U.S. CHP (Pea beans)	25
Grade U.S. CHP (all other beans)	10
Grade U.S. Extra No. 1	10

(c) *Discount.*

	Cents per 100 pounds
Grade U.S. No. 2	25
Paper package	09

(d) *Deduction for processing charges.* In the case of beans which have not been processed (i.e., commercially cleaned), the rate shall be reduced by the following amounts (except for beans stored comingled in an approved warehouse):

	Dollars per 100 pounds from U.S. No. 1 rate
All States except Michigan and New York	$1.00
Michigan, Pea beans only	1.00
Michigan, other classes	1.50
New York	2.00

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on August 14, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-9722; Filed, Aug. 17, 1967; 8:46 a.m.]

[CCC Grain Price Support Regs., 1967-Crop Rye Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1967-Crop Rye Loan and Purchase Program

WAREHOUSE CHARGES; CORRECTION

The September 8 date appearing in § 1421.2859 *Warehouse charges,* paragraph (a), published in the FEDERAL REGISTER on July 18, 1967, page 10502, is in error. The correct date is September 6.

The corrected line reads as follows:

Sept. 6–Oct. 3 1967---------- 8 cents.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on August 14, 1967.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 67-9724; Filed, Aug. 17, 1967; 8:46 a.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[FHA Instructions 441.5, 441.6]

PART 1833—ECONOMIC OPPORTUNITY LOANS TO INDIVIDUALS

A new Part 1833 consisting of Subparts A and B is added to Chapter XVIII, Title 7, Code of Federal Regulations (31 F.R. 14109), prescribing regulations for making Economic Opportunity loans to individuals. The new part reads as follows:

Subpart A—Loans to Farmers

Sec.
1833.1 General.
1833.2 Objectives.
1833.3 Definitions.
1833.4 Supervision.
1833.5 Relationship of Economic Opportunity and other FHA loans.
1833.6 Determining "reasonable assurance of repayment" for Economic Opportunity loans.
1833.7 Eligibility.
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1833.31 General.
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1833.43 Loan approval.
1833.44 Loan forms and routines.
1833.45 Approval or rejection.
1833.46 Loan closing.
1833.47 Revision in the use of Economic Opportunity loan funds.

AUTHORITY: The provisions of this Part 1833 issued under sec. 602, 78 Stat. 528, 42 U.S.C. 2942; Order of Director, Office of Economic Opportunity, 29 F.R. 14764; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650.

Subpart A—Loans to Farmers

§ 1833.1 General.

This subpart prescribed jointly by the Director, Office of Economic Opportunity, and the Secretary of Agriculture, includes the policies, procedures, and authorizations for making Economic Opportunity loans for agricultural and nonagricultural enterprises to low-income farm families under the provisions of section 302, Title III, of the Economic Opportunity Act of 1964.

§ 1833.2 Objectives.

The objectives of these loans are to improve the capacity of the applicant family through the acquisition and development of resources so as to produce and maintain a higher income and thereby generate at least a modest increase in their level of living and make some improvement in their financial situation. Loans to finance nonagricultural enterprises are intended to assist low-income farm families in establishing a new enterprise or expanding or reorganizing existing enterprises needed to supplement the earnings received from their farming operations.

(a) In areas in which approved community action programs are in operation or programs are in process of development, County Supervisors will carry on all Farmers Home Administration (FHA) activities in such a manner as to further implement such community action programs to the maximum extent possible. Therefore, in the making of each Economic Opportunity loan, the applicant will be encouraged to participate in and to make maximum use of the community action programs.

(b) State Directors will give preference in the use of Economic Opportunity loan funds to those counties that have approved community action programs.

(c) In order to determine whether the proposed loan will result in an increase in the capacity, income, and level of living as referred to in this paragraph, a careful analysis and comparison will be made of the family's situation for the year previous to their application for FHA assistance as reflected on Form FHA 410–1, "Application for FHA Services," and elsewhere in the borrower's case folder, for the first crop year after they receive FHA assistance as shown in Form FHA 431–2, "Farm and Home Plan," and for the typical year after they receive FHA assistance also shown on Form FHA 431–2.

§ 1833.3 Definitions.

(a) *Low-income farm family.* A low-income farm family means an established farm family with limited assets whose income now and recently from all sources is and was insufficient to:

(1) Provide the family with basic needs for a minimum level of living in their community.

(2) Pay necessary farm and other operating expenses.

(3) Meet required payments on their farm and other essential income producing property.

(b) *Established farm family.* An established farm family as used herein is a family that is farm oriented, has a farm background, has under lease or owns, or will have under lease or will own at the time of loan approval what is recognized as a farm in the community, and is producing at least a portion of their subsistence needs from crops or livestock.

§ 1833.4 Supervision.

The farm families who are to receive loans under this subpart are confronted with such problems as, very limited resources; low incomes; indebtedness beyond their present ability to repay; ineffective management of their operations, income, and credit; lack of management skills; and an unsatisfactory level of living. Therefore, these families will be provided intensive supervision in order that they may be properly assisted in overcoming their problems and thus improve their incomes, levels of living, and financial situations.

§ 1833.5 Relationship of Economic Opportunity and other FHA loans.

(a) Applicants for credit assistance from the FHA will be considered for the type of loan which will be most effective in assisting them to improve their farms, incomes, levels of living, and financial situations. Thus, first consideration will ordinarily be given to the making of other FHA loans to an applicant.

(b) When an applicant cannot qualify for other FHA loans or his needs cannot be fully met with such loans, consideration will be given to meeting as much of his needs as possible with an Economic Opportunity loan. Such a loan will enable many applicants to continue in farming and remain in their rural communities and in some instances improve their situations to the point where other FHA loans can be made to further assist them in also achieving the objectives for such loans.

(c) An Economic Opportunity loan may be made to an applicant simultaneously with an initial Operating loan under the provisions of § 1831.2(b) of this chapter, or an initial Emergency loan under Part 1832 of this chapter.

(d) An Economic Opportunity loan may be made simultaneously with an initial loan made under Part 1821 or Part 1822 of this chapter, or to a borrower indebted for any other FHA loan, provided the Economic Opportunity loan is made for purposes not authorized for the other loan(s).

§ 1833.6 Determining "reasonable assurance of repayment" for Economic Opportunity loans.

Before making an Economic Opportunity loan, it must be determined that there is "reasonable assurance of repayment." Repayment ability will be based on a farm and home plan showing the first year's operations as well as those for a typical year. Such plan will be developed with an agreed to by the applicant and should reflect sufficient income

to improve the level of living, pay operating expenses, make payments on debts as necessary to retain income producing property, and also repay the Economic Opportunity loan under the liberal terms authorized herein. "Reasonable assurance of repayment," as used herein, takes into consideration, among other things, the following factors:

(a) Economic Opportunity loans are made only to low-income farm families who are confronted with serious resource and other problems. Therefore, in order to reduce the relatively high risk involved in making a loan under these conditions, County Supervisors will help such families to exercise wise use of loan funds and will provide intensive supervision to help assure that the objectives of the loan will be achieved.

(b) Economic Opportunity loans are made primarily for purposes that will increase income and, therefore, will enhance the repayment ability of the applicant.

(c) Economic Opportunity loans generally will be scheduled for repayment over longer periods of time than other FHA loans thereby keeping annual installments at a modest level.

§ 1833.7 Eligibility.

To be eligible for an Economic Opportunity loan each applicant must:

(a) Be the head of an established low-income farm family or a legally competent member of the family who, after the loan is made, will be primarily responsible for the management and the operation of the farming or nonagricultural enterprise which contributes directly and substantially to the family income. For this purpose, an individual living alone is eligible as a family.

(b) Be an individual who has sufficient experience as an owner-operator of a farm, farm tenant, share cropper, or farm laborer, by having been reared on a farm, or has had sufficient experience or training which, with FHA supervision, will assure reasonable prospects of success in the farming operation or the nonagricultural enterprise in connection with which the loan will be made.

(c) Possess the character, ability, and industry necessary to carry out the proposed operations and in the opinion of the County Committee will honestly endeavor to carry out the undertaking required of him in connection with the loan.

(d) Be unable to finance the required adjustments and improvements in his farming operation or the needed nonagricultural enterprise through his own resources, income, FHA loans, and credit under reasonable rates and terms from other sources.

(e) Have reasonable prospects, with the assistance of a loan and the use of other available resources and supervision, of being able to generate at least a modest increase in his income and level of living and make some improvement in his financial situation.

(f) If funds are included in the loan for a nonagricultural enterprise, produce only goods or services from that enterprise for which there is a need that is not being adequately supplied by others in the community and for which there is a reasonably reliable market.

(g) Have such tenure on the farm to be operated as necessary to permit him to achieve the objectives of the loan as described in § 1833.2.

(h) Possess legal capacity to incur the obligations of the loan.

(i) Not be engaged in a larger than family-farming operation after the loan is made.

§ 1833.8 Certification of County Committee.

Before a loan is approved, the County Committee will certify on Form FHA 440–2, "County Committee Certification or Recommendation," that the applicant is eligible for a loan in accordance with the provisions of § 1833.7.

§ 1833.9 Loan purposes.

(a) Loans for agricultural purposes may include funds for the following:

(1) Purchase of livestock, poultry, fish, and farm equipment.

(2) Purchase of an undivided interest in farm equipment or facilities to be operated under a joint arrangement or as a group service.

(3) Purchase of feed, seed, fertilizer, and the payment of other essential farm operating expenses which will result in or contribute to the long-term improvement in the applicant's income as referred to in § 1833.2.

(4) Paying costs incident to expanding or adding farm enterprises or reorganizing the farming system for more profitable operation.

(5) Purchase of livestock for subsistence needs, purchase of minimum essential home furnishings and equipment, and payment of minimum essential family subsistence expenses provided the objectives of the loan as described in § 1833.2 cannot otherwise be met and the amount of funds advanced for such purposes is an incidental part of the loan.

(6) Acquisition of memberships in farm purchasing and marketing and farm service-type cooperative associations or to purchase stock in such associations to enable the applicant to obtain services needed to improve his income and financial situation.

(7) Purchase, construction, alteration, repair, or relocation of essential buildings.

(8) Land and water development, use, and conservation essential to the operation of the farm including such things as fencing, drainage, irrigation, and the establishment and improvement of permanent hay or pasture.

(9) Purchase of real estate.

(10) Payment of debts secured by liens on real property or livestock and farm equipment. However, the amount advanced for payment of the debts may not exceed the normal value of the real property or market value of the livestock and farm equipment as determined by the County Supervisor and documented in Table A of Form FHA 431–2, minus the amount of any other indebtedness secured by liens on the property after the refinancing is accomplished.

(11) Purchase of a milk base either with or without cows where such action is necessary to assure the applicant a satisfactory market for his dairy products.

(12) Payment of expenses incident to loan closing.

(b) Loans for nonagricultural purposes may include funds for the following:

(1) Purchase of essential equipment, tools, facilities, animals, birds, and fish.

(2) Purchase, construction, alteration, repair, and relocation of buildings.

(3) Payment of necessary operating expenses, and the purchase of necessary inventory.

(4) Paying costs incident to establishing a new enterprise, expanding or reorganizing the enterprise for more profitable operation.

(5) Purchase of livestock for subsistence needs, purchase of minimum essential home furnishings and equipment, and payment of minimum essential family subsistence expenses provided that the objectives of the loan, as described in § 1833.2, cannot otherwise be met and the amount of funds advanced for such purposes is an incidental part of the loan.

(6) Purchase of real estate.

(7) Payment of debts secured by liens on real or chattel property used in a nonagricultural enterprise. However, the amount advanced for payment of the debts may not exceed the normal value of the real property or the market value of the chattel property as determined by the County Supervisor and documented in Table A of Form FHA 431–2, minus the amount of any other indebtedness secured by liens on the property after the refinancing is accomplished.

(8) Acquisition of membership or stock in cooperative associations financed under the provisions of Subpart D, Part 1823 of this chapter, and other cooperative associations providing similar services in the community.

(9) Purchase of a franchise, contract, or a privilege when such action is necessary for the enterprise.

(10) Purchase of an undivided interest in equipment or facilities to be operated under a joint arrangement.

(11) Payment of expenses incident to loan closing.

§ 1833.10 Limitations and special requirements.

(a) The amount of each loan will be limited to the needs of the applicant and his reasonable ability to pay. A loan may not be made which will result in a total principal and interest (calculated to the date of loan approval) balance outstanding for Economic Opportunity loans in excess of $3,500 to an individual or to a family.

(b) A joint loan may be made to two eligible applicants living together or separately, and operating jointly an agricultural or nonagricultural enterprise. When joint loans are made, both individuals will execute the application, payment authorization, notes, and other documents required in connection with making and closing the loan. A joint loan

may not exceed the limitation set forth in paragraph (a) of this section.

(c) Separate loans may be made to eligible applicants who are engaged jointly in an agricultural or nonagricultural enterprise provided not more than two individuals are interested in the enterprise, and provided the applicants are not members of the same family.

(d) No loan will be made to finance any nonagricultural enterprise or facility used by the applicant in the production of industrial products in his home or on his premises for a manufacturer rather than in such manufacturer's place of business. This would not prohibit an applicant who is a bona fide independent producer from producing in his own home or on his premises products to be sold to a manufacturer, wholesaler, or retailer whether contracted for in advance or sold in some other manner.

§ 1833.11 Rates and terms.

(a) Interest will be charged at the rate of 4⅛ percent per annum. Interest will accrue from the date of the loan check on outstanding principal only and will not be compounded.

(b) Loans will be scheduled for repayment over the minimum period consistent with the applicant's reasonable ability to repay as determined by an analysis of the farm and home operations and the nonagricultural enterprise when such an enterprise is involved.

(1) Principal payments on such loans will be scheduled at least annually unless it is determined that income sufficient to meet the initial payment will not be received within 12 months from the date of the loan check in which case the initial payment may be scheduled on a date coinciding with the date the income is to be received, but not beyond the end of the second full year following the date of the loan. At least one payment will be scheduled during each 12-month period thereafter.

(2) When conditions warrant such action, principal payments may vary in amounts. For example, when an agricultural or nonagricultural enterprise is being expanded or added, a variable or graduated payment could be used if necessary.

(3) In no event will any payment be scheduled later than 15 years from the date of the loan check.

§ 1833.12 Nondiscrimination.

No person in the United States shall, on grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the program authorized in this subpart.

§ 1833.13 Security policies.

Economic Opportunity loans will be made on the basis of the borrower's promissory note and loan agreement without taking other security except:

(a) When an Economic Opportunity loan is made to an FHA borrower or to an applicant who is also receiving another FHA loan and a significant amount of Economic Opportunity funds is used to acquire, improve, or refinance debts on property that is covered or will be covered by a lien securing the other FHA loan, all Economic Opportunity loans will be secured by lien on such property.

(1) In such cases when the other FHA loan is a direct loan, the notes for both the Economic Opportunity and the other FHA loans will be described in the same lien instrument. On the other hand, when the other FHA loan is insured, a separate lien instrument will be required for the Economic Opportunity loan. When separate lien instruments are taken, the lien securing the loan resulting in the larger investment in the security will be given priority.

(b) When a significant amount of Economic Opportunity loan funds is used to purchase or make repairs to licensed motor vehicles or motor boats, or to refinance debts thereon, liens normally will be taken on such property. This action is authorized because of the problems involved in transferring title to such property when the borrower refuses to do so and when it is necessary for the FHA to repossess and sell it in liquidation cases. Liens on motor vehicles will be taken in the same manner as for Operating loans. Liens on motor boats will be taken in accordance with instructions issued by the State Director.

§ 1833.14 Loan approval.

County Supervisors and Assistant County Supervisors, grade GS–7 and above, are authorized to approve loans made under this subpart.

§ 1833.15 Loan forms and routines.

(a) *Form FHA 410–1, "Application for FHA Services."* Applications for loans will be taken on Form FHA 410–1.

(b) *Form FHA 440–2, "County Committee Certification or Recommendation."* When the applicant is determined to be eligible for a loan, the County Committee will execute Form FHA 440–2 before the loan is approved.

(c) *Form FHA 431–2, "Farm and Home Plan."* Form FHA 431–2 will be developed with all applicants in the same manner as for other FHA loans to individuals. In addition, the actual columns in Tables B through K of that form will show the information for a typical year and the column headings will be changed accordingly. This, along with the information contained in Form FHA 410–1 and other information in the borrower's case folder, will assist the applicant and the County Supervisor in determining whether the objectives of the loan will be achieved.

(d) *Form FHA 431–4, "Business Analysis — Nonagricultural Enterprise."* This form will be developed with all applicants requesting loans for the financing of nonagricultural enterprises. The information contained in this form, along with that shown in the application and the farm and home plan, will assist the applicant and County Supervisor in determining whether the objectives of the loan will be achieved. The nonagricultural enterprise must return sufficient income to pay its operating expenses, depreciation, and make a reasonable contribution to the family's living expenses.

(e) *Form FHA 431–1, "Long-Time Farm and Home Plan."* Form FHA 431–1 may be used when necessary in planning long-time aims and objectives with applicants.

(f) *Form FHA 441–1, "Promissory Note."* The amount of each loan and the scheduled payments thereon will be in multiples of $10. Not more than four payments on a single note will be scheduled for any year. The time limitations for payment schedules prescribed in § 1833.11 run from the date of the loan check instead of the date of the note. Form FHA 441–1 will be dated as of the date of execution by the applicant. The requirements for the applicant's spouse to execute the note are the same as for loans made under Part 1831 of this chapter.

(g) *Form FHA 440–9, "Supplementary Payment Agreement."* This form will be used, as needed, when applicants and borrowers who will be receiving income from the nonagricultural enterprise, wages, and so forth, from which payments are to be made on the loan.

(h) *Form FHA 440–1, "Payment Authorization."* Form FHA 440–1 will be prepared for the total amount of the Economic Opportunity loan including the amount for both agricultural purposes and nonagricultural purposes when both purposes are included.

(i) *Immediate and future disbursement.* Loan funds may be disbursed in an immediate loan advance or in one or more future loan advances in the same manner as for loans made under Part 1831 of this chapter.

(j) *Loan agreement.* Form FHA 441–19, "Loan Agreement," will be used in lieu of other security instruments. It will be the County Supervisor's responsibility to see that the requirements in the loan agreement are carried out and to take any necessary actions as prescribed therein.

(k) *Voluntary debt adjustment.* Voluntary debt adjustment assistance will be provided when the adjustment of debts appears necessary to establish a sound financial position and operation. Form FHA 403–1, "Debt Adjustment Agreement," will be used to document satisfactory agreements for the adjustment of a debt.

(l) *Form FHA 441–10, "Nondisturbance Agreement."* Form FHA 441–10 will be used when necessary to obtain nondisturbance agreements from creditors of an applicant who are in a position to interfere with his operations.

§ 1833.16 Review and approval or rejection.

(a) *Approval of loans.* If a loan is approved, the loan approval official will date and sign Form FHA 440–1 and insert his title in the spaces designated for this purpose. The loan approval official also will prescribe any special conditions of approval.

(b) *Rejection of loans.* If a loan is rejected, the loan approval official will indicate the reasons for the rejection, in

detail. The County Supervisor will notify the applicant of the rejection and will return to him the original of Form FHA 441–1 and any executed security instruments.

§ 1833.17 Loan closing.

(a) *Check delivery.* County Office employees in bonded positions will receive and deliver loan checks. All loan checks will be deposited in supervised bank accounts except when all purchases are being made from one vendor at the same time and the loan check is endorsed payable to the vendor in the presence of an FHA employee. Form FHA 402–1, "Deposit Agreement," will be used for supervised bank accounts. Upon receipt of a loan check and if the depository bank does not require the applicant's endorsement for deposit, the County Supervisor will deposit the loan check in the supervised bank account and furnish the applicant a copy of the deposit slip. If the bank will not accept the loan check for deposit in a supervised bank account without the applicant's endorsement, the County Supervisor will retain the check and arrange with the applicant for a time and place for its deposit.

(b) *Fees.* Notary and other fees incident to all loan closing or servicing will be paid by the borrower from personal funds or from proceeds of the loan. Whenever cash is accepted by FHA personnel to be used to pay such fees, Form FHA 440–12, "Acknowledgment of Payment For Recording, Lien Search, and Releasing Fees," will be executed. FHA personnel who accept custody of such fees will make it clear to the borrower that the amount so accepted is not received by the Government as credit on the borrower's indebtedness but is accepted only for the purpose of paying such fees on behalf of the borrower.

§ 1833.18 Revision in the use of Economic Opportunity loan funds.

The County Supervisor is authorized to approve changes in the purposes for which loan funds are to be used provided such changes are for authorized purposes and will accomplish the purpose of the loan program. Documentation and routines when changes are made in the use of loan funds will be the same as for loans made under Part 1831 of this chapter.

Subpart B—Loans to Nonfarm Rural Families for Nonagricultural Enterprises

§ 1833.31 General.

This subpart prescribed jointly by the Director, Office of Economic Opportunity, and the Secretary of Agriculture, includes the policies, procedures, and authorizations for making Economic Opportunity loans for nonagricultural enterprises to low income rural families under the provisions of section 302, Title III, of the Economic Opportunity Act of 1964.

§ 1833.32 Objectives.

The objectives of these loans are to improve the capacity of the applicant family through the acquisition and development of resources so as to produce and maintain a higher income and thereby generate at least a modest increase in their level of living and make some improvement in their financial situation. Loans to finance nonagricultural enterprises are intended to assist low income rural families in establishing a new enterprise or expanding or reorganizing existing enterprises to supplement their earnings.

(a) In areas in which approved community action programs are in operation or programs are in the process of development, County Supervisors will carry on all Farmers Home Administration (FHA) activities in such a manner as to further implement such community action programs to the maximum extent possible. Therefore, in the making of each Economic Opportunity Loan the applicant will be encouraged to participate in and to make maximum use of the community action programs. State Directors will give preference in the use of Economic Opportunity loan funds to those counties that have approved community action programs.

(b) In order to determine whether the proposed loan will result in an increase in the capacity, income, and level of living as referred to in this paragraph, a careful analysis and comparison will be made of the family's situation for the year previous to their application for FHA assistance as reflected on Form FHA 410–1, "Application for FHA Services," Form FHA 410–2, "Supplement to Application for FHA Services (For Applicants Who Depend on Off-Farm Income)," and elsewhere in the borrower's case folder, and for the first year after they receive FHA assistance also shown on Form FHA 431–4, "Business Analysis—Nonagricultural Enterprise."

§ 1833.33 Definitions.

(a) *Rural family.* A rural family is one whose permanent place of abode is in the open country or in any place of less than 5,500 persons which is not a part of an urban area. It shall not include a family which:

(1) Lives in a closely settled area (where the principal land use and occupancy is residential or commercial) surrounding, adjacent to, or growing out of, a town, village, or place of more than 5,500 people. When determining whether a residential area is to be considered near to, or a part of, a place of 5,500 persons or more, minor open spaces due to physical barriers, commercial or industrial developments, parks, areas reserved for convenience or appearance, or narrow strips of cultivated land will be disregarded.

(2) Lives in a subdivision of substantial size which is being developed in a rural area, unless a large proportion of the residents will obtain most of their income from employment in the surrounding rural area.

(b) *Low-income rural family.* A low-income rural family means a family with limited assets whose income now and recently from all sources is and was insufficient to:

(1) Provide the family with basic needs for a minimum level of living in their community,

(2) Pay necessary business or other operating expenses, and

(3) Meet required payments on their essential income producing property.

§ 1833.34 Supervision.

The rural families who are to receive loans under this subpart are confronted with such problems as, very limited resources; low incomes; indebtedness beyond their present ability to repay; ineffective management of their operations, income, and credit; lack of management skills; and an unsatisfactory level of living. Therefore, these families will be provided intensive supervision in order that they may be properly assisted in overcoming their problems and thus improve their incomes, level of living, and financial situation.

§ 1833.35 Determining "reasonable assurance of repayment" for Economic Opportunity loans.

Before making an Economic Opportunity loan, it must be determined that there is "reasonable assurance of repayment." Repayment ability will be based on the information contained in Form FHA 431–3, "Family Budget," and Form FHA 431–4 showing the first year's operations as well as those for a typical year. Such information will be developed with and agreed to by the applicant and should reflect sufficient income to improve the level of living, pay operating expenses, make payments on debts as necessary to retain income producing property, and also repay the Economic Opportunity loan under the liberal terms authorized herein. "Reasonable assurance of repayment," as used herein, takes into consideration, among other things, the following factors:

(a) Economic Opportunity loans are to be made only to low income families who are confronted with serious resource and other problems. Therefore, in order to reduce the relatively high risk involved in making a loan under these conditions, County Supervisors will help such families to exercise wise use of loan funds and will provide intensive supervision to help assure that the objectives of the loan will be achieved.

(b) Economic Opportunity loans are made primarily for purposes that will increase income and, therefore, will enhance the repayment ability of the applicant.

(c) Economic Opportunity loans generally will be scheduled for repayment over longer periods of time than most other types of loans for similar purposes under the existing conditions thereby keeping annual installments at a modest level.

§ 1833.36 Eligibility.

To be eligible for an Economic Opportunity loan each applicant must:

(a) Be the head of a low income rural family or a legally competent member of the family who, after the loan is made, will be primarily responsible for the management and the operation of the

enterprise which contributes directly and substantially to the family income. For this purpose an individual living alone is eligible as a family.

(b) Be an individual who has sufficient experience or training which, with FHA supervision, will assure reasonable prospects of success in the nonagricultural enterprise in connection with which the loan will be made.

(c) Possess the character, ability, and industry necessary to carry out the proposed operations and in the opinion of the County Committee will honestly endeavor to carry out the undertakings required of him in connection with the loan.

(d) Be unable to finance the needed nonagricultural enterprise through his own resources, income, or credit under reasonable rates and terms from other sources.

(e) Have reasonable prospects, with the assistance of a loan and the use of other available resources and supervision, of being able to generate at least a modest increase in his income and level of living and make some improvement in his financial situation.

(f) Produce only goods or services from the nonagricultural enterprise for which there is a need that is not being adequately supplied by others in the community and for which there is a reasonably reliable market.

(g) Possess legal capacity to incur the obligations of the loan.

§ 1833.37 Certification of County Committee.

Before a loan is approved, the County Committee will certify on Form FHA 440–2, "County Committee Certification or Recommendation," that the applicant is eligible for a loan in accordance with the provisions of § 1833.36.

§ 1833.38 Loan purposes.

(a) Loans for nonagricultural purposes may include funds for the following:

(1) Purchase of essential equipment, tools, facilities, animals, birds, and fish.

(2) Purchase, construction, alteration, repair, and relocation of buildings.

(3) Payment of necessary operating expenses and the purchase of necessary inventory.

(4) Paying costs incident to establishing a new enterprise, expanding the enterprise or reorganizing the enterprise for more profitable operation.

(5) The purchase of livestock for subsistence needs, the purchase of minimum essential home furnishings and equipment, and the payment of minimum essential family subsistence expenses provided the objectives of the loan cannot otherwise be met and that the amount of funds advanced for such purposes is an incidental part of the loan.

(6) Purchase of real estate.

(7) Payment of debts secured by liens on real or chattel property used in a nonagricultural enterprise. However, the amount advanced for payment of the debts may not exceed the normal value of the real property or the market value of the chattel property as determined by the County Supervisor and documented in Table A of Form FHA 431–3, minus the amount of any other indebtedness secured by liens on the property after the refinancing is accomplished.

(8) Acquisition of membership or stock in cooperative associations financed under the provisions of Subpart D, Part 1823 of this chapter, and other cooperative associations providing similar services in the community.

(9) The purchase of a franchise, contract or a privilege when such action is necessary for the enterprise.

(10) Purchase of an undivided interest in equipment or facilities to be operated under a joint arrangement.

(11) The payment of expenses incident to loan closing.

§ 1833.39 Limitations and special requirements.

(a) The amount of each loan will be limited to the needs of the applicant and his reasonable ability to pay. A loan may not be made which will result in total principal and interest (calculated to the date of loan approval) balance outstanding on Economic Opportunity loans in excess of $3,500 to an individual or to a family.

(b) A joint loan may be made to two eligible applicants living together or separately and operating jointly a nonagricultural enterprise. When joint loans are made, both individuals will execute the application, payment authorization, notes, and other documents required in connection with making and closing the loan. A joint loan may not exceed the limitation set forth in paragraph (a) of this section.

(c) Separate loans may be made to eligible applicants who are engaged jointly in a nonagricultural enterprise provided not more than two individuals are interested in the enterprise, and provided the applicants are not members of the same family.

(d) No loan will be made to finance any nonagricultural enterprise or facility used by the applicant in the production of industrial products in his home or on his premises for a manufacturer rather than in such manufacturer's place of business. This would not prohibit an applicant who is a bona fide independent producer from producing in his own home or on his premises products to be sold to a manufacturer, wholesaler, or retailer whether contracted for in advance or sold in some other manner.

§ 1833.40 Rates and terms.

(a) Interest will be charged at the rate of 4⅛ percent per annum. Interest will accrue from the date of the loan check on outstanding principal only and will not be compounded.

(b) Loans will be scheduled for repayment over the minimum period consistent with the applicant's reasonable ability to repay after taking into consideration the information shown on Form FHA 431–3, Form FHA 431–4, and other pertinent facts.

(1) Principal payments on such loans will be scheduled at least annually unless it is determined that income sufficient to meet the initial payment will not be received within 12 months from the date of the loan check, in which case the initial payment may be scheduled on a date coinciding with the date the income is to be received but not beyond the end of the second full year following the date of the loan. At least one payment will be scheduled during each 12-month period thereafter.

(2) When conditions warrant such action, principal payments may vary in amounts. For example, when a nonagricultural enterprise is being expanded or added, a variable or graduated payment could be used if necessary.

(3) In no event will any payment be scheduled later than 15 years from the date of the loan check.

§ 1833.41 Nondiscrimination.

No person in the United States shall, on grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the program authorized in this subpart.

§ 1833.42 Security policies.

Economic Opportunity loans will be made on the basis of the borrower's promissory note and loan agreement without taking other security except:

(a) When an Economic Opportunity loan is made to an FHA borrower or to an applicant who is also receiving another FHA loan and a significant amount of Economic Opportunity funds is used to acquire, improve, or refinance debts on property that is covered or will be covered by a lien securing the other FHA loan, all Economic Opportunity loans will be secured by lien on such property.

(1) In such cases when the other FHA loan is a direct loan, the notes for both the Economic Opportunity and the other FHA loans will be described in the same lien instrument. On the other hand, when the other FHA loan is insured, a separate lien instrument will be required for the Economic Opportunity loan. When separate lien instruments are taken, the lien securing the loan resulting in the larger investment in the security will be given priority.

(b) When a significant amount of Economic Opportunity loans is used to purchase or make repairs to licensed motor vehicles or motor boats, or to refinance debts thereon, liens normally will be taken on such property. This action is authorized because of the problems involved in transferring title to such property when the borrower refuses to do so and when it is necessary for the FHA to repossess and sell it in liquidation cases. Liens on motor vehicles will be taken in the same manner as for loans made under Part 1831 of this chapter. Liens on motor boats will be taken in accordance with instructions issued by the State Director.

§ 1833.43 Loan approval.

County Supervisors and Assistant County Supervisors, grade GS–7 and above, are authorized to approve loans made under this subpart.

§ 1833.44 Loan forms and routines.

(a) *Form FHA 410–1, "Application for FHA Services."* Applications for loans will be taken on Form FHA 410–1 in the same manner as for other FHA loans to individuals.

(b) *Form FHA 410–2, "Supplement to Application for FHA Services (For Applicants Who Depend on Off–Farm Income)."* Applicants who are employed in other than their own nonagricultural enterprise will complete this form to show their employment record.

(c) *Form FHA 440–2, "County Committee Certification or Recommendation."* When the applicant is determined to be eligible for a loan, the County Committee will execute Form FHA 440–2 before the loan is approved.

(d) *Form FHA 431–3, "Family Budget."* This form will be developed with all applicants for whom loans are to be considered.

(e) *Form FHA 431–4, "Business Analysis—Nonagricultural Enterprise."* This form will be developed with all applicants for whom loans are to be considered. The information contained in this form, along with that shown in the application and other information in the loan docket, will assist the applicant and County Supervisor in determining whether the objectives of the loan will be achieved. The nonagricultural enterprise must return sufficient income to pay its operating expenses, depreciation, and make a reasonable contribution to the family's living expenses.

(f) *Form FHA 441–1, "Promissory Note."* The amount of each loan and the scheduled payments thereon will be in multiples of $10. Not more than four payments on a single note will be scheduled for any year. The time limitations for payment schedules prescribed in § 1833.40 run from the date of the loan check instead of the date of the note. Form FHA 441–1 will be dated as of the date of execution by the applicant. The requirements for the applicant's spouse to execute the note are the same as for loans made in accordance with Part 1831 of this chapter.

(g) *Form FHA 440–9, "Supplementary Payment Agreement."* This form will be used, as needed, when applicants and borrowers who will be receiving income from the nonagricultural enterprise, wages, and so forth, from which payments are to be made on the loan.

(h) *Form FHA 440–1, "Payment Authorization."* Form FHA 440–1 will be prepared for the total amount of the Economic Opportunity loan.

(i) *Immediate and future disbursement.* Loan funds may be disbursed in an immediate loan advance or in one or more future loan advances in the same manner as for loans made under Part 1831 of this chapter.

(j) *Form FHA 441–19, "Loan Agreement."* This form will be used in lieu of other security instruments. It will be the County Supervisor's responsibility to see that the requirements in the loan agreement are carried out and to take any necessary actions as prescribed therein.

(k) *Voluntary debt adjustment.* Voluntary debt adjustment assistance will be provided when the adjustment of debts appears necessary to establish a sound financial position and operation. Form FHA 403–1, "Debt Adjustment Agreement," will be used to document satisfactory agreements for the adjustment of a debt.

(l) *Form FHA 441–10, "Nondisturbance Agreement."* This form will be used when necessary to obtain nondisturbance agreements from creditors of an applicant who are in a position to interfere with his operations.

§ 1833.45 Approval or rejection.

(a) *Approval of loans.* If a loan is approved, the loan approval official will date and sign Form FHA 440–1 and insert his title in the spaces designated for this purpose. The loan approval official also will prescribe any special conditions of approval.

(b) *Rejection of loans.* If a loan is rejected, the loan approval official will indicate the reasons for the rejection, in detail in the loan docket or by memorandum. The County Supervisor will notify the applicant of the rejection and will return to him the original of Form FHA 441–1 and any executed security instruments.

§ 1833.46 Loan closing.

(a) *Check delivery.* County office employees in bonded positions will receive and deliver loan checks. All loan checks will be deposited in supervised bank accounts except when all purchases are being made from one vendor at the same time and the loan check is endorsed payable to the vendor in the presence of an FHA employee. Form FHA 402–1, "Deposit Agreement," will be used for supervised bank accounts. Upon receipt of a loan check and if the depository bank does not require the applicant's endorsement for deposit, the County Supervisor will deposit the loan check in the supervised bank account and furnish the applicant a copy of the deposit slip. If the bank will not accept the loan check for deposit in a supervised bank account without the applicant's endorsement, the County Supervisor will retain the check and arrange with the applicant for a time and place for its deposit.

(b) *Fees.* Notary and other fees incident to loan closing or servicing will be paid by the borrower from personal funds or from proceeds of the loan. Whenever cash is accepted by FHA personnel to be used to pay such fees, Form FHA 440–12, "Acknowledgement of Payment For Recording, Lien Search, and Releasing Fees," will be executed. FHA personnel who accept custody of such fees will make it clear to the borrower that the amount so accepted is not received by the Government as credit on the borrower's indebtedness but is accepted only for the purpose of paying such fees on behalf of the borrower.

§ 1833.47 Revision in the use of Economic Opportunity loan funds.

The County Supervisor is authorized to approve changes in the purposes for which loan funds are to be used provided such changes are for authorized purposes and will accomplish the purpose of the loan program. Documentation and routines when changes are made in the use of loan funds will be the same as for loans made under Part 1831 of this chapter.

Dated: August 11, 1967.

FLOYD F. HIGBEE,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 67–9726; Filed, Aug. 17, 1967; 8:46 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Kofa Game Range, Ariz.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

ARIZONA

KOFA GAME RANGE

Public hunting of bighorn sheep and deer on the Kofa Game Range, Ariz., is permitted only on the area designated by signs as open to hunting. The bighorn sheep season is from November 25, through December 10, 1967, inclusive, and the deer season is from September 9, through September 25, 1967, inclusive, and from October 27, through November 12, 1967, inclusive. The open bighorn sheep and deer hunting area, comprising 660,041 acres is delineated on maps available at refuge headquarters, Yuma, Ariz., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations covering the hunting of bighorn sheep and deer subject to the following special condition:

(1) Bighorn sheep limited to 10 permits issued by the Arizona Game and Fish Department.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 10, 1967.

CLAUDE F. LARD,
Refuge Manager, Kofa Game Range, Yuma, Ariz.

AUGUST 8, 1967.

[F.R. Doc. 67–9707; Filed, Aug. 17, 1967; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8318; Amdt. 549]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
CGT VOR	Park Int	Via CGT, R 356° and bearing 135° from ID LOM.	3500	T-dn	300-1	300-1	200-½
				C-dn	400-1	500-1	500-1½
				S-dn-32R	400-1	400-1	400-1
API VOR*	Park Int	Direct	3500	A-dn	800-2	800-2	800-2
Niles Int	Park Int	Via API, R 068° and bearing 135° from ID LOM.	3500				
ORD VOR*	Park Int	Direct	3500				
OBK VOR*	Park Int	Direct	3500				
Park Int	ID LOM (final)	Direct	2300				
Lakewood Int	ORD VOR	Via OBK, R 272° and ORD VOR, R 360°.	3500				

Radar available.

Procedure turn E side of crs, 135° Outbnd, 315° Inbnd, 3500' within 10 miles of Park Int.

Minimum altitude over ID LOM on final approach crs, 2300'; over Park Int on final approach crs, 3500'.

Crs and distance, ID LOM to airport 315°—6 miles.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 miles after passing ID LOM, turn right to 335° heading, climb to 1500', then make right-climbing turn to 3500' and proceed to Evanston Int via ORD, R 076°.

NOTES: (1) Functioning VOR receiver required unless a radar vector to final approach crs is obtained. (2) LOM 32L named River Grove; LOM 32R named Indian. (3) *Requires holding pattern entry at Park Int during nonradar operation. (4) All transitions to Park Int except as noted.

CAUTION: Takeoffs on Runway 27 when weather is below 2000-3 will intercept ORD VOR, R 256° and climb to 2000' before proceeding westbound. Takeoffs on Runway 32L when weather is below 2000-3 will intercept ORD VOR, R 306° and climb to 2000' before proceeding westbound.

MSA within 25 miles of facility: 000°-090°—2100'; 090°-180°—2600'; 180°-270°—2400'; 270°-360°—2600'.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., LOM; Ident., ID; Procedure No. NDB(ADF) Runway 32R, Amdt. 4; Eff. date, 9 Sept. 67; Sup. Amdt. No. ADF 5, Amdt. 3; Dated, 16 June 66

CVG VOR	RBn	Direct	2400	T-dn	300-1	300-1	200-½
Madeira RBn	RBn	Direct	2700	C-dn	400-1	500-1	500-1½
Mount Healthy Int	RBn	Direct	2400	S-dn-6R	400-1	400-1	400-1
Warsaw Int	RBn	Direct	2400	A-dn	800-2	800-2	800-2
Raymond Int	RBn	Direct	2000				
Manchester Int	RBn (final)	Direct	2300				

Radar available.

Procedure turn S side of crs, 270° Outbnd, 090° Inbnd, 2400' within 10 miles.

Minimum altitude over facility on final approach crs, 2200'.

Crs and distance, facility to airport, 090°—4.3 miles.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles after passing URN RBn, climb to 2500' on heading 120°, intercept R 090° CVG VOR, and proceed to Alexandria Int. Hold E, 1-minute right turns, 270° Inbnd.

MSA within 25 miles of facility: 000°-090°—2500'; 090°-180°—2300'; 180°-270°—2200'; 270°-360°—2300'.

City, Covington; State, Ky.; Airport name, Greater Cincinnati; Elev., 890'; Fac. Class., MHW; Ident., URN; Procedure No. NDB(ADF) Runway 9R, Amdt. Orig.; Eff. date, 9 Sept. 67

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
SDF RBn	LK LOM	Direct	2200	T-dn	300-1	300-1	200-½
LOU VOR	LK LOM (final)	Direct	2200	C-dn	600-1	600-1	600-1½
Harbor Int	LK LOM	Direct	2200	S-dn-29	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Radar available.
Procedure turn N side of crs, 110° Outbnd, 290° Inbnd, 2200′ within 10 miles of LOM.
Minimum altitude over facility on final approach crs, 2200′.
Crs and distance, facility to airport, 290°—4.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing LK LOM, climb to 2500′ on heading 260°, intercept R 270° LOU VOR and proceed to Corydon Int. Hold W, 1-minute, right turns, 099° Inbnd.
ALTERNATE MISSED APPROACH: Within 4.6 miles after passing LK LOM, make left-climbing turn to 2100′, proceed direct to SD LOM. Hold N, 1-minute right turns, 197° Inbnd.
MSA within 25 miles of facility: 000°-090°—2500′; 090°-180°—2300′; 180°-270°—2300′; 270°-360°—3000′.

City, Louisville; State, Ky.; Airport name, Standiford Field; Elev., 497′; Fac. Class., LOM; Ident., LK; Procedure No. NDB (ADF) Runway 29, Amdt. 5; Eff. date, 9 Sept. 67; Sup. Amdt. No. ADF 2, Amdt. 4; Dated, 13 Aug. 66

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Saginaw VORTAC	Hope Int	Direct	2300	T-dn	300-1	300-1	200-½
Edenville Int	Hope Int (final)	Direct	2300	C-dn	500-1	500-1	500-1½
R 212°, MBS VORTAC clockwise	Edenville Int	Via 23-mile DME Arc.	2300	A-dn	NA	NA	NA
R 016°, MBS VORTAC counterclockwise	Edenville Int	Via 23-mile DME Arc.	2300				

Procedure turn N side of crs, 137° Outbnd, 317° Inbnd, 2300′ within 10 miles of Hope Int.
Minimum altitude over Hope Int on final approach crs, 2300′.
Crs and distance, Hope Int to airport, 137°—5.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.6 miles after passing Hope Int, make left turn, climb to 2600′ and proceed to Wheeler Int via MBS, R 320°.
NOTES: (1) Use Saginaw, Mich. altimeter setting. (2) Dual VOR receivers or DME required.
MSA within 25 miles of facility: 000°-090°—2200′; 090°-180°—2700′; 180°-270°—2600′; 270°-360°—1900′.

City, Midland; State, Mich.; Airport name, Jack Barstow; Elev., 628′; Fac. Class., L-BVORTAC; Ident., MBS; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 9 Sept. 67

ONT VOR	POM VOR	Direct	3500	T-dn	300-1	300-1	NA
Covina Int	POM VOR (final)	Direct	3000	C-dn*	500-1	500-1	NA
				S-dn-6	400-1	400-1	NA
				A-dn	800-2	800-2	NA

Radar available.
Procedure turn S side of crs, 235° Outbnd, 055° Inbnd, 3000′ within 10 miles.
Minimum altitude over facility on final approach crs, 3000′.
Crs and distance, facility to airport, 055°—5.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.2 miles after passing POM VOR, make immediate right climbing turn, climb direct to POM VOR at 3000′.
*CAUTION: Rapidly rising terrain to 4200′ at 3.5 miles N of airport.
MSA within 25 miles of facility: 000°-090°—11,100′; 090°-180°—4100′; 180°-270°—3000′; 270°-360°—9600′.

City, Upland; State, Calif; Airport name, Cable; Elev., 1450′; Fac. Class., L-BVORTAC; Ident., POM; Procedure No. VOR Runway 6, Amdt. 1; Eff. date, 9 Sept. 67; Sup. Amdt. No. VOR-1, Orig.; Dated, 18 Apr. 64

3. By amending the following very high frequency omnirange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
PSK VORTAC	11-mile DME Fix, R 067° (final)	Direct	3500	T-d	300-1	300-1	NA
				C-d	900-1¼	900-1¼	NA
				S-d-7	900-1½	900-1½	NA
				A-dn	NA	NA	NA

Procedure turn S side of crs, 247° Outbnd, 067° Inbnd, 4500' within 10 miles of R 067°, 11-mile DME Fix.
Minimum altitude over 11-mile DME Fix, R 067° on final approach crs, 3500'.
Crs and distance, 11-mile DME Fix, R 067° to airport, 067°—5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at the 15-mile DME Fix, R 067°, make a left-climbing turn to 5100'. Return to PSK VORTAC via R 067°; hold SW, 1-minute right turns, 031° Inbnd.
NOTE: Use Roanoke, Va., altimeter setting.
CAUTION: Mountainous terrain higher than airport in all directions.
MSA within 25 miles of facility: 000°–090°—5400'; 090°–180°—5000'; 180°–270°—5000'; 270°–360°—5100'.

City, Blacksburg; State, Va.; Airport name, VPI; Elev., 2110'; Fac. Class., H-BVORTAC; Ident., PSK; Procedure No. VOR/DME Runway 7, Amdt. Orig.; Eff. date, 9 Sept. 67

4. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
OBK VOR#	Park Int	Direct	3500	T-dn@	300-1	300-1	200-½
CGT VOR	Park Int	Via CGT, R 356° and SE crs IDN ILS.	3500	C-dn	400-1	500-1	500-1½
				S-dn-32R$*	200-½	200-½	200-½
				A-dn	600-2	600-2	600-2
Niles Int	Park Int	Via API, R 068° and SE crs IDN ILS.	3500				
ORD VOR#	Park Int	Direct	3500				
Park Int	OM (final)	Direct	2300				
Lakewood Int	ORD VOR	Via OBK, R 272° and ORD VOR, R 306°.	3500				

Radar available.
Procedure turn E side of crs, 138° Outbnd, 318° Inbnd, 3500' within 10 miles of Park Int.
Minimum altitude over Park Int on final approach crs, 3500'.
Crs and distance, OM to airport 318°—6 miles.
Altitude of glide slope and distance to approach end of runway at LOM, 2300'—6 miles; at MM, 843'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6 miles after passing OM, turn right to 335° heading, climb to 1500', then make right-climbing turn to 3500' and proceed to Evanston Int via ORD VOR, R 075°.
NOTES: (1) Functioning VOR receiver required unless radar operating. (2) Caution when conducting a parallel approach, parallel ILS Runways 32 L and R procedure must be used. (3) #Requires holding pattern entry at Park Int during nonradar operations. (4) All transitions to Park Int except as noted.
CAUTION: Takeoffs on Runway 27 when weather is below 2000-3 will intercept ORD VOR, R 250° and climb to 2000' before proceeding westbound. Takeoffs on Runway 22L when weather is below 2000-3 will intercept ORD VOR, R 306° and climb to 2000' before proceeding westbound.
*400-¾ required when glide slope not utilized, 400-½ with operative ALS, except for 4-engine turbojets.
@RVR 2400' authorized Runways 32 L and R, 14 L and R, and 27.
$RVR 2400'. Descent below 867' not authorized unless approach lights are visible.

City, Chicago; State, Ill.; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., ILS; Ident., I-IDN; Procedure No. ILS Runway 32R, Amdt. 2; Eff. date, 9 Sept. 67; Sup. Amdt. No. ILS-32R, Amdt. 1; Dated, 18 June 66

Canal Int	Indian OM (final when glide slope not utilized).	318°, 6.8	2300	T-dn@	300-1	300-1	200-½
				C-dn	NA	NA	NA
Congress Int	River Grove OM (final when glide slope not utilized).	318°, 2.4	2300	S-dn-32L, 32R#	200-½	200-½	200-½
				A-dn	600-2	600-2	600-2

Procedure turn not authorized. Radar required.
Crs., River Grove OM to 32L, 318°; Indian OM to 32R, 318°.
Runway 32L: Minimum at glide slope intercept Inbnd 3000'.
Runway 32R: Minimum at glide slope intercept Inbnd 4000'.
Altitude of glide slope and distance to approach end of runway at OM: 32L—2282', 5.6 miles, 32R—2300', 6 miles.
Altitude of glide slope and distance to approach end of runway at MM: 32L—851', 0.6 mile; 32R—843', 0.5 mile.
When advised by controller or if visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runway 32L—Turn left to 200° heading, climb to 1500', then make left-climbing turn to 3500' and proceed direct to DPA VOR. Runway 32R—Turn right to 335° heading, climb to 1500', then make right-climbing turn to 3500' and proceed to Evanston Int via ORD, R 075°. #Runway 32 L and 32R—400-¾ required when glide slope not utilized, 400-½ with operative ALS except for 4-engine turbojets RVR 2400'. Descent below 867' not authorized unless approach lights are visible.
NOTES: (1) Use of this procedure is mandatory when conducting a parallel ILS 32 L and R approach, and is authorized only when airborne 75 mc (or ADF) and localizer receiver are operating simultaneously. Radar fixes in lieu of Congress or Canal Ints will be provided on pilot's request. (2) When any required airborne receiver in note (1) is malfunctioning or a parallel approach is not desired, immediate notification of approach control is mandatory. (3) When advised that parallel operations are in progress, the pilot will check his authorization for Runways 32 L and R and be prepared to accept or reject approach to either.
@RVR 2400' authorized Runways 32 L and R, 14 R and L, and 27.

City, Chicago; State, Ill; Airport name, Chicago-O'Hare International; Elev., 667'; Fac. Class., ILS; Ident., I-RVG and I-IDN; Procedure No. Parallel ILS 32 L and R, Amdt. 2; Eff. date, 9 Sept. 67; Sup. Amdt. No. Parallel ILS 32 L and R, Amdt. 1; Dated, 18 June 66

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Nabb VOR	LK LOM	Direct	2300	T-dn	200-1	300-1	200-½
SDF LOM	LK LOM	Direct	2200	C-dn	600-1	600-1	600-1½
LOU VOR	LK LOM (final)	Direct	2100	S-dn-29	300-¾	300-¾	300-¾
Harbor Int	LK LOM	Direct	2200	A-dn	600-2	600-2	600-2
Henryville Int	LK LOM	Direct	3000	With glide slope inoperative:			
Martinsburg Int	LK LOM	Direct	3000	S-dn-29	400-¾	400-¾	400-¾
Bourbon Int	LK LOM	Direct	2500				
Shelby Int	LK LOM	Direct	2400				
Waterford Int	LK LOM	Direct	2400				

Radar available.
Procedure turn N side of crs, 110° Outbnd, 290° Inbnd, 2200′ within 10 miles of LOM.
Minimum altitude at glide slope interception Inbnd, 2100′.
Altitude of glide slope and distance to approach end of Runway 29 at OM, 2014′—4.6 miles; at MM, 707′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.6 miles after passing LK LOM, climb to 2500′ on heading 260°, intercept R 279°, LOU VOR and proceed to Corydon Int. Hold W, 1-minute right turns, 099° Inbnd.
ALTERNATE MISSED APPROACH: Within 4.6 miles after passing LK LOM, make left-climbing turn to 2100′ direct to SD LOM. Hold N, 1-minute right turns, 190° Inbnd.
NOTE: Back crs unusable.
MSA within 25 miles of LOM: 000°–090°—2500′; 090°–180°—2300′; 180° –270°—2300′; 270°–360°—3000′.

City, Louisville; State, Ky.; Airport name, Standiford Field; Elev., 497′; Fac. Class., ILS; Ident., I-LKS; Procedure No. ILS Runway 29, Amdt. 5; Eff. date, 9 Sept. 67; Sup. Amdt. No. ILS-29, Amdt. 4; Dated, 10 Apr. 65

5. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				Surveillance approach			
000°	360°	0-6 miles	1500	T-dn@	300-1	300-1	200-½
150°	200°	6-20 miles	1500	C-dn	600-1	600-1	600-1½
200°	150°	6-20 miles	1600	S-dn-9, 27, 36 R and L, 18 R and L. #%. A-dn	500-1 800-2	500-1 800-2	500-1 800-2

All bearings and distances are from radar site located at Tampa International Airport with sector azimuths progressing clockwise.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished: Runway 9—climb to 1600′, turn left, proceed direct to TP LOM. Runways 36 R and L—climb to 1600′, proceed direct to TP LOM. Runway 27—climb to 1600′, proceed direct to PIE VORTAC. Runways 18 R and L—climb to 1600′, turn right, proceed direct to PIE VORTAC.
NOTES: (1) RADAR control will provide 1000′ vertical separation within a 3-mile radius of radio towers, 861′ 11.7 miles SE; 1135′, 15.7 miles SE; and 1549′ 17.7 miles SE. (2) @ RVR 2400′ authorized for takeoff Runway 18L. (3) # 500-¾ authorized with operative HIRL, except for 4-engine turbojets Runways 36 L and R and 18 L and R. (4) % 500-½ authorized with operative ALS, except for 4-engine turbojets Runway 18L.

City, Tampa; State, Fla.; Airport name, Tampa International; Elev., 27′; Fac. Class and Ident., Tampa Radar; Procedure No. 1, Amdt. Orig.; Eff. date, 9 Sept. 67

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on August 2, 1967.

WILLIAM G. SHREVE, JR.,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-9441; Filed, Aug. 17, 1967; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. No. ER-504; Amdt. 5]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Denied Boarding Compensation Tariffs

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of August 1967.

On January 10, 1967, the Board issued a notice of proposed rule making, EDR-109, Docket 16563 (32 F.R. 459), in which it proposed to issue a new Part 250 and to amend Part 221 so as to require carriers to file tariffs providing denied boarding compensation to such passengers.

In the light of the comments received and the findings set out in Regulation ER-503 published simultaneously herewith, the Board hereby amends Part 221 of the Economic Regulations (14 CFR Part 221) by amending § 221.38 (a) by adding a new subparagraph (7), effective October 17, 1967, as follows:

§ 221.38 Rules and regulations.

(a) *Contents.* * * *

(7) *Denied boarding compensation.* For carriers subject to Part 250, denied boarding compensation as specified in Part 250.

* * * * *

(Secs. 204(a), 416(a), Federal Aviation Act of 1958 (72 Stat. 743, 771; 49 U.S.C. 1324 and 1386) Interpret or apply secs. 102, 403, 404, 411, Federal Aviation Act of 1958 (72 Stat. 240, 758, 760, 769; 49 U.S.C. 1302, 1373, 1374, and 1381); secs. 3, 4, Administrative Proce-

dure Act (81 Stat. 54; 80 Stat. 383; 5 U.S.C. 552, 553))

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-9741; Filed, Aug. 17, 1967; 8:47 a.m.]

[Reg. No. ER-503]

PART 250—PRIORITY RULES, DENIED BOARDING COMPENSATION TARIFFS AND REPORTS OF UNACCOMMODATED PASSENGERS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of August 1967.

In a notice of proposed rule making published in the FEDERAL REGISTER on January 17, 1967 (32 F.R. 459) and circulated as EDR-109, Docket 16563, the Board proposed to amend Part 221 and to issue a new Part 250 of the Economic Regulations. The new part would require carriers to establish and file with the Board priority rules for determining which passengers holding confirmed reserved space shall be denied boarding on an oversold flight. In addition, the amendment to Part 221 and the new Part 250 would require carriers to file tariffs providing specified denied boarding compensation to such passengers. Finally, the new part would require carriers to file reports of unaccommodated passengers.

Interested persons were offered an opportunity by the notice to participate in the making of this rule through submission of written data, views, or arguments. Consolidated comments on behalf of 28 air carriers have been submitted by the Air Transport Association of America (ATA). In addition supplementary comments have been filed by certain air carriers,[1] and a number of comments have been received from members of the traveling public. Due consideration has been given to all relevant matter presented.

The Board has decided to adopt the rule with the modifications set forth below. Except as modified herein, the tentative findings set forth in the Explanatory Statement to the proposed rule (EDR-109, supra) are incorporated herein by reference and made final.

In considering the comments filed by ATA and supplementary comments filed by various air carriers, we are met at the outset with the contention that certain aspects of the proposed rule are beyond the scope of the Board's statutory authority. Specifically, the carriers claim that the Board's power to regulate denied boarding compensation derives solely from section 1002 of the Act. It is asserted that under sections 1002 (d) and (f) the Board can prescribe a rule, regulation, or practice affecting a rate, fare, or charge for interstate, overseas, or foreign air transportation, or the value of service thereunder, only if the Board, after notice and hearing, finds the present rule, regulation, or practice unlawful. Since no hearing has been held, it is argued that we cannot prescribe denied boarding compensation.

We do not agree. The fact that denied boarding compensation is the subject of tariff filings does not compel us to act only pursuant to the tariff and rate-fixing procedures of the Act. While tariff procedures undoubtedly are available and represent a convenient and logical method for setting forth the practices which the carriers follow with respect to reservations and denied boarding compensation, we would be empowered, in our judgment, to impose the requirements here involved by regulation which did not require the filing of tariffs. Furthermore, while the rate-fixing procedures of the Act also are available and appropriate for dealing with specific problems peculiar to individual carriers in relation to such practices, the problems with which we are here confronted go beyond the mere regulation of rates and practices affecting the value of services. We are here concerned with the broad problem of air carrier reservation procedures, including circumstances in which the carriers are utilizing a system of confirmed reservations notwithstanding their inability to assure that such reservations will in fact be honored. The problem thus cuts across a number of areas of Board jurisdiction and carrier responsibility, and the provisions and purposes of section 411 of the Act are involved to a far greater extent than are the rate-fixing ones. Section 411 precludes "unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof." This provision, the antidiscrimination provision, and the overall public interest provisions and purposes of the Act militate against a reservation system which leads members of the traveling public to believe that they have firm reservations when in fact they do not, without there being some adequate compensation features available to those persons whose reservations are not honored. The Board is not required to sit idly by and permit such a result. Neither does it believe that it is required to proceed by cumbersome evidentiary hearings to take the action here involved, particularly since the issues and action involved are largely ones of policy and judgment in future applications whose resolution does not turn upon findings of fact concerning disputed evidentiary matters. Nor is this result legally required because tariffs are involved. See American Airlines v. Civil Aeronautics Board, 359 F. 2d 624 (C.A.D.C., 1966), cert. denied, 385 U.S. 843.

Congress has given the Board not only a wide regulatory authority with respect to carrier practices, but the specific function of promoting adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences, or advantages, or unfair or destructive competitive practices. And, in addition, Congress has given the Board the power to classify carriers and service and the power to issue implementing rules and regulations.[2] See American Airlines v. Civil Aeronautics Board, supra. On the other hand, the carriers have the duty, under section 404(a), to enforce just and reasonable classifications, rules, regulations and practices relating to interstate and overseas air transportation, and section 404(b) proscribes unjust discrimination.

In our opinion the action proposed is clearly within our rule making powers under sections 204(a) and 416(a). We are here basically concerned with the policy the Board should adopt with respect to the reservations practices of route carriers which operate flights to and from the contiguous States. Thus, unlike adjudication, we are not evaluating a respondent's past conduct or determining past and present rights and liabilities, and the issues do not relate to evidentiary facts, but to policymaking conclusions to be drawn from the facts.

The facts to which our policy is directed have been set out in EDR-109. There, we noted the dimensions of the oversales problem and the reservations practices of the carriers which contribute to it. It was concluded that the present reservations system of the carriers is designed to provide maximum benefits to the traveling public and to reduce the carriers' reservations costs. However, it was concluded that these ends are achieved at a price of substantial inconvenience and hardship to those relatively few passengers who are oversold and denied boarding although holding confirmed reservations. Under these circumstances two policy avenues were open to the Board. It could reduce oversales by closely regulating the details of the reservations systems of the carriers with the inevitable result of curtailing the present flexibility by which passengers make, change and cancel reservations. No carrier suggests that this course should be taken by the Board, and several comments state that the present proposal is preferable to our earlier proposal which would have placed severe restrictions on existing reservations practices.[3] The second policy course

[1] Eastern Air Lines, Lake Central Airlines, Mohawk Airlines, Northwest Airlines, Pan American World Airways, Trans Caribbean Airways, Trans-Texas Airways, Trans World Airlines, and United Air Lines.

[2] Section 204(a) provides: "The Board is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this Act, as it shall deem necessary to carry out the provisions of, and to exercise and perform its powers and duties under this Act."

Section 416(a) provides: "The Board may from time to time establish such just and reasonable classifications or groups of air carriers for the purposes of this title as the nature of the services performed by such air carriers shall require; and such just and reasonable rules and regulations, pursuant to and consistent with the provisions of this title, to be observed by each such class or group, as the Board finds necessary in the public interest."

[3] EDR-95, Oct. 12, 1965.

is that which has been followed: To take positive steps to assure prompt, effective and adequate compensation to passengers who are denied boarding and to refrain from detailed regulation of the carriers' reservations practices. Clearly, commensurate with our responsibilities, a third policy avenue was not open: To do nothing. Certainly we cannot properly tolerate a system which represents to the public a commitment that a passenger has a firm reservation when that commitment is not honored upwards of 50,000 times a year and the passengers holding these unhonored reservations are offered little or no compensation.

We further emphasize that the facts upon which our policy is based are not contested nor are there any issues involved which are of a type which could be resolved in an evidentiary hearing. And in this connection we point out that neither ATA nor any carrier has stated what kinds of facts they propose to adduce at an oral hearing, and by what witnesses, nor is there any proffer as to particular lines of cross-examination which required explanation at an oral hearing.[4]

Moreover, there has been no refutation of the Board's findings in EDR-109 that the compensation provided in carriers' present tariffs for failure to accommodate passengers with confirmed reserved space "falls far short of being adequate"[5] and that it is not completely equitable in view of its being primarily limited to domestic transportation. Thus, ATA does not claim that the existing tariff is adequate. Instead, it claims that the objective of "prompt, effective and adequate compensation to oversold passengers" is accomplished "under existing rules and practices." The "practices" referred to,[6] however, vary from carrier to carrier, are conducted on an ad hoc basis depending upon the situation, and are not obligatory. We cannot accept the voluntary provision of amenities by air carriers to some oversold passengers as a substitute for requiring air carriers to offer prompt, effective and adequate monetary compensation to all oversold passengers.[7]

In their separate comments, the only carriers which appear to defend the present level of the denied boarding compensation tariff are TWA and United. TWA believes that, although the statistics show that those accepting denied boarding compensation received only an average of $20, "it can be argued equally well from these statistics that the vast majority of oversale passengers deemed the existing compensation to be adequate" and United states that from all the evidence the Board has before it, "it could equally as well conclude that the oversold passenger has been compensated too handsomely."

We cannot agree. An average payment of $20 for a carrier's failure to provide a passenger with confirmed reserved space is, on its face, a mere token which cannot reasonably be considered adequate to compensate a passenger for the inconvenience, distress, and, in many cases, hardship and monetary loss resulting from an oversale. And clearly no inference can be drawn from the fact that passengers in the main accept what is offered to them rather than engage in costly litigation with the carrier.

For the reasons set forth, we conclude that it is within the Board's rule making powers to require carriers to file denied boarding compensation tariffs at a level prescribed by the Board, as well as to require the filing of priority rules and reports of unaccommodated passengers. We further conclude that the rule as proposed, except for the modifications hereinafter set forth, is necessary to give effect to the Board's policy that air carriers conducting flights to and from the contiguous States shall be required to offer prompt, effective and adequate compensation to oversold passengers.

We have, however, given careful consideration to the views of the carriers and the public as submitted in their comments on EDR-109 concerning implementation of our policy. Set forth below is our disposition of the significant matters raised.

We deal first with the suggestion of Northwest, Pan American, and TWA that the rule should not apply to international routes.[8] These carriers argue that, since foreign air carriers do not offer denied boarding compensation, U.S. flag carriers would be at a competitive disadvantage if they were required to do so. And TWA states that, if the Board wishes to consider denied boarding compensation in international air transportation at all, then it should consider such only with a view to equal treatment of United States and foreign flag carriers.[9]

In our view, the above comments do not justify excepting foreign air transportation by U.S. air carriers from application of the requirement to provide adequate compensation to oversold passengers. Far from being a competitive disadvantage, it would appear to us that if U.S.-flag carriers do provide denied boarding compensation and their foreign competitors do not, the competitive disadvantage lies with the latter. Furthermore, once U.S.-flag carriers are known to provide denied boarding compensation and foreign air carriers do not, competitive pressures may well force the latter to provide equal or substantially equal treatment to oversold passengers. Finally, the per carrier expense of denied boarding payments has not been shown, or even alleged, to be of such magnitude as to affect the relative operating costs of U.S.-flag carriers vis-a-vis their foreign competitors.

In this latter connection we point out that the cost of denied boarding compensation to the carriers as a whole will be of relatively minor proportion. In 1966, according to ATA, the domestic trunk and local service airlines boarded some 95 million passengers, and the estimated 50,000 oversold passengers represented only five one-hundredths of 1 percent of the passengers boarded. It is clear that we are dealing with a minimal cost item relative to total revenues.

Turning to other aspects of the rule, it was proposed that the required tariffs provide for compensation to be paid a passenger holding confirmed reserved space at the rate of 200 percent of the value of the first remaining flight coupon with a $50 minimum and a $200 maximum. ATA and carriers commenting on the level of compensation are unanimously of the belief that it is excessive. ATA states, however, that it may well be that a case can be made for a rate in the range of 100 percent of the fare with no maximum for flights within the continental United States, and maintains that the proposed $50 minimum would be particularly harsh on local service carriers. Eastern opposes the $50 minimum, and asserts that 100 percent of the value of the first remaining flight coupon with a $25 minimum and a $200 maximum, plus full amenities where warranted, is a more realistic level.[10] Northwest argues that if such a requirement is imposed on foreign air transportation, the maximum should not be more than $100, and TWA believes that an international oversale "penalty" should not in any event exceed 50 percent of the first

[4] See American Airlines, Inc. v. Civil Aeronautics Board, supra, 359 F. 2d at 633.

[5] Eastern specifically agrees with this finding.

[6] ATA states that "the carriers generally absorb the costs of such amenities as overnight hotel accommodation in those rare instances where the oversold passenger cannot be boarded until the next day, local and long distance phone calls or telegrams to advise of changed arrival time, meals, ground transportation, and even the chartering of air taxi planes to facilitate movement of the passenger." ATA adds: "For representative carriers, the annual costs of such amenities approximate the amounts paid out as denied boarding compensation."

[7] On the other hand, the requirement that carriers provide denied boarding compensation to oversold passengers is not intended to preclude carriers from according these amenities to passengers.

[8] Trans Caribbean requests that the New York-San Juan market also be excluded from the provisions of the rule until such time as "more realistic" provisions can be worked out to cure the related problems in the market. In support, it relies on extreme peaking problems and a high level of no-shows and multiple bookings during peak times. Far from furnishing a reason for excluding the New York-San Juan market, the matters cited by Trans Caribbean illustrate that this is a market where the oversales problem is particularly acute and the rule needed. Furthermore, no-shows and multiple bookings are within the capacity of the carrier to control.

[9] TWA also contends that the rule would require modification of various IATA resolutions, particularly Resolution 278, and that the Board should take this factor into account. We are not convinced that modification of any IATA resolution would be required. But if such were the case, it would pose no obstacle to promulgation of the rule.

[10] Mohawk also supports compensation at the rate of 100 percent of the first remaining flight coupon with a $25 minimum.

remaining flight coupon and that a maximum limit of $150 would be more than equitable.[11]

The level of compensation to be provided oversold passengers must be determined on the basis of reasonable and responsible judgment in the light of comment offered on the proposal and the attendant facts of record. On balance we are persuaded that the appropriate level of compensation would be 100 percent of the first remaining flight coupon with a maximum of $200 and a minimum of $25.

Compensation at the rate of 100 percent of the value of the first remaining flight coupon, as suggested by ATA and certain carriers, is equal to the amount invested by the passenger and represents the value of the transportation which the carrier failed to provide under its commitment to the passenger. Therefore, we believe that this level would in a general way make the passenger "whole" for the damage suffered by him, would be high enough, in our view, to provide adequate compensation to passengers accepting it and still not be so high as to invite abuses by some passengers.

While Eastern agrees that a $200 maximum would be appropriate, Northwest and TWA oppose this maximum for international travel.[12] The latter argues that the maximum, as well as the percentage rate, for international travel should be below domestic standards, as the inconvenience tends to be less for international travelers.

We agree that delays for international travelers are of generally less significance than for domestic travelers. Because of the length of transit, time differentials, customs clearance requirements, and extended stays abroad which are usual in international travel, these travelers ordinarily do not budget their time so tightly as in the case of domestic travelers, and a delay of a few hours occasioned by denied boarding would not cause undue hardship. We shall recognize these differences in international travel by revising the proposed rule to provide that, in foreign air transportation a passenger shall not be eligible for compensation if the carrier arranges for alternate means of transportation, which, at the time such arrangement is made, is planned to arrive at the passenger's next point of stopover earlier than, or not later than 4 hours after, the time the flight, for which confirmed reserved space is held, is planned to arrive. In view of this revision, there is no justification for compensating eligible denied boarding passengers in foreign air transportation at a lower level than domestic passengers.

With respect to the proposed $50 minimum, it is contended that it would be particularly harsh on local service carriers and on trunklines with respect to short-hauls, since it could result in payments up to 500 percent of the fare in principal local service markets and over 300 percent in certain short-haul trunk markets.

In light of these comments we have decided to revise the minimum to $25. Under this minimum, payments of more than 200 percent of the flight coupon will result only where its value is less than $12.50. At the same time a $25 minimum gives recognition to the fact that compensation directly geared to the value of a flight coupon in this limited category would not be adequate.

As indicated above, in international travel the "one-hour rule" respecting arrangement of alternate means of transportation to passengers will be revised to 4 hours. In addition, the final rule will provide that, with respect to interstate and overseas air transportation, a passenger shall not be eligible for compensation if the carrier arranges for alternate means of transportation, which, at the time such arrangement is made, is planned to arrive at the passenger's next point of stopover, earlier or not later than two hours after, the time the flight, for which confirmed reserved space is held, is planned to arrive.

In our opinion the proposed 1-hour rule would be too restrictive. As a practical matter there would be relatively few opportunities for carriers to provide alternate transportation under these conditions. A 2-hour provision will give the carriers flexibility in arranging alternate transportation for the passengers' benefit and a 2-hour delay at a stopover point should not, in general, cause undue inconvenience to passengers. Furthermore, ATA points out that where a passenger must make a connection with another flight requiring for example a 2-hour stopover, if the carrier arranges alternate transportation which would permit him to make the connection he would not be inconvenienced. Nevertheless, despite the lack of inconvenience to the passenger, he would be eligible for compensation under a 1-hour rule if the alternate flight reached the stopover point more than 1 hour after the planned arrival of the flight on which he had been originally booked. For the above reasons, the proposed rule will be revised in the manner indicated.

The proposed rule did not provide an exception for eligibility for denied boarding compensation where the flight on which the passenger holds confirmed reserved space is unable to accommodate him because of (1) extraordinary fuel requirements, (2) reduction in allowable takeoff or landing weight for reasons beyond the carrier's control, or (3) substitution of equipment of lesser capacity when required by operational and/or safety reasons. These exceptions are contained in the carriers' present denied boarding compensation tariff, and ATA, TWA, Trans Caribbean, and Trans-Texas contend that the rule should include them.[13] ATA believes that to require the payment of denied boarding compensation under the three situations described above would be a retrograde step not in the public interest. ATA states that the practicalities of air transportation sometimes make the aircraft scheduled for a particular flight unavailable for such reasons as mechanical problems or because it is grounded by weather at some other airport. When this occurs, and the only available airplane is one of smaller capacity, ATA contends that it is in the public interest to substitute the smaller airplane, and carry as many passengers as it will accommodate rather than to cancel the flight, and the same considerations apply where it is necessary to block seats because of weather or fuel requirements.

We have determined to revise the rule only to provide an exception for the case of substitution of equipment of lesser capacity when required by operational and/or safety reasons.

While the carriers cannot predict that circumstances on a particular flight will require the blocking of seats because of weather or fuel requirements, they can predict that such conditions will arise from time to time, particularly at certain stations. By accepting reservations up to 100 percent of the seats on the aircraft, the carriers in effect gamble that these circumstances will not occur on a particular flight. This policy, which is under the control of the carriers, inevitably produces oversales. Such oversales, moreover, could be substantially eliminated by accepting reservations for something less than the total number of seats. While the present policy may well be the most economic, we see no reason why it should in effect be subsidized by the oversold passenger. We shall not, therefore, adopt the first two exceptions suggested above.

The exception with respect to substitution of equipment does, however, have merit. While the blocking of space to reduce takeoff weight to an allowable level would normally affect comparatively few passengers on any given flight, the substitution of equipment of lesser capacity because of mechanical failure, for example, may require a large number of passengers to be denied boarding with a consequent substantial loss to the carrier were it required to pay denied boarding compensation. Further, unlike the case of payload restrictions, denied boardings arising from aircraft substitutions are more truly beyond the carriers' control, since they could not reasonably be expected to withhold from advance sale the very large number of seats that would be required to reasonably insure against the possibility of oversales. Also, in the case of equipment substitutions, economic pressures might well force the carrier to cancel the flight altogether rather than pay compensation to passengers denied boarding because of the substitution. Accordingly, we believe that it would be in the

[11] TWA advocates a domestic "penalty" of 100 percent of the first remaining coupon and a $150 maximum.

[12] In addition, Pan American believes that the temptation to fraud inherent in a proposal that would pay $200 to a passenger with a ticket showing a confirmed reservation for which no record could be located would be greater in foreign air transportation because of the greater value in many countries of $200 in U.S. currency.

[13] Eastern, however, endorses the deletion of these exceptions.

general interest of the traveling public to permit this exception to eligibility for denied boarding compensation. We shall be prepared, however, to eliminate this exception should we find that abuses have occurred.

Section 250.7 of the proposed rule [12a] would require every carrier to tender a passenger eligible for denied boarding compensation, on the day and place the denied boarding occurs, a draft for the appropriate amount of compensation, with the reverse side of the draft including a release from liability when the draft is endorsed by the passenger, provided that the draft is endorsed and paid within 30 days of the date on which the denied boarding occurs. ATA objects to the requirement of release from liability if the draft is endorsed and paid within 30 days. It states that most carriers regard the existing tariff which "contemplates" [14] the transaction being completed at the time of denied boarding as a cleaner and more expeditious way to handle oversale incidents. TWA and Trans Caribbean also oppose the 30-day period, while Eastern believes it reasonable. And Mohawk does not oppose it, but states that it will petition for relief if at some later date it finds such time lag to be burdensome.

In our opinion, it would be manifestly unfair to require passengers to make a decison, immediately after being denied boarding, as to whether to accept compensation as liquidated damages for all damages incurred by the passenger as a result of the carrier's failure to provide the passenger with confirmed reserved space. Passengers who are denied boarding should instead be given the opportunity of making the election after the consequences of denied boarding have occurred and are known to them. We believe the 30-day limit will insure this result without undue delay in settling the incident.

In addition to the comments noted above, ATA states, with respect to the requirement that tender of the draft be made at the time and place the denied boarding occurs, that in some situations it has been found that it better suits the passenger's convenience if this is done at the point of destination.[15] (For example, even the few minutes required to complete the compensation transaction might cause the passenger to miss, or to risk missing, an alternative flight.) According to ATA, some carriers feel a minor rewording of the present rule may be in order to cover such situations.

We agree with ATA that where a carrier arranges alternate means of transportation for an oversold passenger it may be impossible to prepare and tender the draft prior to departure time. Accordingly, the rule will be changed by adding a proviso that where a carrier arranges, for the passenger's convenience, alternate means of transportation which departs before the draft can be prepared and tendered the passenger, tender shall be made by mail or other means within 24 hours after the time the denied boarding occurs.

In addition, Trans Caribbean states that the rule raises substantial questions of administration, since it is not always possible for ticket counter personnel to tell whether a passenger holding an apparently valid ticket but whose name is not on the reservation list actually holds a valid confirmed reservation. According to the carrier, the most common example of this problem is the returning passenger who has not reconfirmed his reservation.

We find that Trans Caribbean's contention is without substantial merit. Section 250.4 of the rule specifies that denied boarding compensation tariffs apply "to a passenger holding confirmed reserved space who presents himself for carriage at the appropriate time and place, having complied fully with the carrier's requirements as to ticketing, check-in and reconfirmation procedures and being acceptable for transportation under the carrier's tariff * * *." We note that Trans Caribbean is the only carrier mentioning the problem referred to, and we are not persuaded that it is not within the control of the carrier.

Section 250.8 of the proposed rule provides that every carrier shall furnish passengers who are denied boarding, immediately after the denied boarding occurs, a written statement explaining the terms, conditions and limitations of the denied boarding compensation. Such a statement was to have included certain specified language. ATA, Eastern, and TWA contend that the specified language is lengthy and somewhat confusing.

We have decided to accord to the carriers the option of using a statement containing the prescribed language or of using a statement of their own making: *Provided,* That it includes the substance of the prescribed language and it is submitted to and approved by the Board prior to its use. Concurrently with the issuance of the instant rule, we are issuing a final rule amending Part 385 by delegating to the Director, Bureau of Operating Rights, the authority to approve or disapprove the statement.

Finally, § 250.9 of the proposed rule would require carriers to file with the Board reports of unaccommodated passengers. ATA and TWA, while otherwise not objecting to the proposal, take the position that reports by U.S.-flag carriers in competitive markets with foreign-flag carriers should be withheld from public disclosure. We agree, and the final rule will provide that reports filed covering international services shall be withheld from public disclosure. Disclosure of such information would adversely affect the interest of these carriers, since it would enable foreign air carriers to have access to it for competitive reasons, and disclosure is not required in the interest of the public.

Accordingly, the Civil Aeronautics Board hereby amends the Economic Regulations, effective October 17, 1967, by adding a new Part 250 to read as follows:

Sec.

250.1 Definitions.
250.2 Applicability.
250.3 Priority rules.
250.4 Filing of denied boarding compensation tariffs.
250.5 Amount of denied boarding compensation.
250.6 Exceptions to eligibility for denied boarding compensation.
250.7 Denied boarding compensation as liquidated damages.
250.8 Denied boarding compensation drafts.
250.9 Written explanation of denied boarding compensation.
250.10 Reports of unaccommodated passengers.

AUTHORITY: The provisions of this Part 250 issued under secs. 204(a) and 416(a), 72 Stat. 743 and 771; 49 U.S.C. 1324 and 1386. Interpret or apply secs. 102, 403, 404, and 411 of the Federal Aviation Act of 1958, 72 Stat. 240, 758, 760, and 769; 49 U.S.C. 1302, 1373, 1374, and 1381; and secs. 3 and 4 of the Administrative Procedure Act, 81 Stat. 54, 80 Stat. 383; 5 U.S.C. 552 and 553.

§ 250.1 Definitions.

For the purpose of this part:

"Carrier" means an air carrier, except a helicopter operator or an air carrier conducting intra-Alaska service exclusively, holding a certificate issued by the Board pursuant to section 401(d) (1) and (2) of the Act, authorizing the transportation of persons.

"Confirmed reserved space" means space on a specific date and on a specific flight and class of service of a carrier which has been requested by a passenger and which the carrier or its agent has verified, by appropriate notation on the ticket, as being reserved for the accommodation of the passenger.

"Stopover" means a deliberate interruption of a journey by the passenger, agreed to in advance by the carrier, at a point between the place of departure and the place of destination.

"Value of the first remaining flight coupon" means the applicable one-way fare, including any surcharge, less any applicable discount.

§ 250.2 Applicability.

This part applies to all carriers as defined in § 250.1 and applies to flights or portions of flights originating or terminating in the United States, its territories or possessions, but excludes flights originating and terminating within the State of Alaska.

§ 250.3 Priority rules.

Every carrier shall establish priority rules and criteria for determining which passengers holding confirmed reserved space shall be denied boarding on an oversold flight. Every carrier shall file with the Board two copies of such rules and criteria, including that portion of its company manual instructing employees on the order of boarding priorities in case of an oversold flight. Such rules and criteria shall not make, give or cause any

[12a] Sec. 250.7, 250.8, and 250.9 of the proposed rule referred to herein are recodified in the final rule as §§ 250.8, 250.9, and 250.10, respectively.

[14] There is no time limit specified in the existing tariff.

[15] It is noted, however, that the point of destination could well be a station not served by the carrier required to make the tender.

undue or unreasonable preference or advantage to any particular person or subject any particular person to any unjust discrimination of any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

§ 250.4 Filing of denied boarding compensation tariffs.

Subject to the exceptions provided in § 250.6, every carrier shall file tariffs providing compensation to a passenger holding confirmed reserved space who presents himself for carriage at the appropriate time and place, having complied fully with the carrier's requirements as to ticketing, check-in and reconfirmation procedures and being acceptable for transportation under the carrier's tariff, and the flight for which the passenger holds confirmed reserved space is unable to accommodate the passenger and departs without him.

NOTE: See § 221.38(a)(7) of this chapter.

§ 250.5 Amount of denied boarding compensation.

Subject to the exceptions provided in § 250.6, the tariffs required by this part shall provide for compensation to be paid a passenger holding confirmed reserved space, as described in § 250.4, at the rate of 100 percent of the value of the first remaining flight coupon with a $25 minimum and a $200 maximum.

§ 250.6 Exceptions to eligibility for denied boarding compensation.

A passenger shall not be eligible for denied boarding compensation if:

(a) The flight for which the passenger holds confirmed reserved space is unable to accommodate him because of: (1) Government requisition of space; or (2) substitution of equipment of lesser capacity when required by operational and/or safety reasons; or

(b) The carrier arranges for alternate means of transportation, which, at the time such arrangement is made, is planned to arrive at the passenger's next point of stopover earlier than, or not later than two hours after, the time the flight, for which confirmed reserved space is held, is planned to arrive in the case of interstate and overseas air transportation, or 4 hours after such time in the case of foreign air transportation; or

(c) The passenger is accommodated on the flight for which he holds confirmed reserved space, but is offered accommodations or is seated in a section of the aircraft other than that specified in his ticket at no extra charge: *Provided*, That a passenger seated in a section for which a lower fare is charged shall be entitled to an appropriate refund.

§ 250.7 Denied boarding compensation as liquidated damages.

The tariffs required by this part shall specify that the carrier will tender, on the day and place the denied boarding occurs, compensation in the amount specified above, which, if accepted by the passenger, shall constitute liquidated damages for all damages incurred by the passenger as a result of the carrier's failure to provide the passenger with confirmed reserved space.

§ 250.8 Denied boarding compensation drafts.

Every carrier shall tender to a passenger eligible for denied boarding compensation, on the day and place the denied boarding occurs, a draft for the appropriate amount of compensation provided in § 250.5, and the reverse side of such draft shall include a release stating that when the draft is endorsed by the passenger, the passenger thereby relieves the carrier from liability for all claims for damages which might accrue to the passenger as a result of the carrier's failure to provide the passenger with space on the flight in question, provided that the draft is endorsed and paid within 30 days of the date on which the denied boarding occurs: *Provided, however*, That where a carrier arranges, for the passenger's convenience, alternate means of transportation which departs before the draft can be prepared and tendered the passenger, tender shall be made by mail or other means within 24 hours after the time the denied boarding occurs.

§ 250.9 Written explanation of denied boarding compensation.

Every carrier shall furnish passengers who are denied boarding on flights on which they hold confirmed reserved space, immediately after the denied boarding occurs, a written statement explaining the terms, conditions and limitations of the denied boarding compensation provided by this part. Each carrier shall, prior to the effective date of this rule, file three copies of the statement with the Bureau of Operating Rights, and the statement shall include the language hereinafter set forth: *Provided, however*, That where a carrier desires to use a statement of its own making which contains the substance of the following language, it may do so after it has submitted the statement to the Board and the Board has approved it.

Tariffs filed by this carrier with the Civil Aeronautics Board provide denied boarding compensation to a passenger holding confirmed reserved space where the flight for which the passenger holds such space is unable to accommodate him and departs without him.

Passengers eligible for denied boarding compensation shall be compensated at the rate of 100 percent of the value of the first remaining flight coupon on their tickets with a $200 maximum and a $25 minimum. The carrier is required to tender to each such passenger, on the day and place the denied boarding occurs, a draft in the amount specified above which, if endorsed and paid within 30 days, shall relieve the carrier from liability for all claims for damages which might accrue to the passenger as a result of the carrier's failure to provide the passenger with space on the flight in question. Where, however, the carrier arranges, for the passenger's convenience, alternate means of transportation which departs before the draft can be prepared and tendered the passenger, tender will be made by mail or other means within 24 hours after the time the denied boarding occurs.

In order to qualify for such compensation a passenger must have complied fully with the carrier's requirements as to ticketing, check-in and reconfirmation procedures and be acceptable for transportation under the carrier's tariff. However, a passenger is not eligible for compensation if (a) the flight for which the passenger holds confirmed reserved space is unable to accommodate him because of Government requisition of space or substitution of equipment of lesser capacity for operational and/or safety reasons; (b) the carrier arranges for alternate means of transportation, which, at the time such arrangement is made, is planned to arrive at the passenger's next point of stopover earlier than, or not later than 2 hours after, the time the flight, for which confirmed reserved space is held, is planned to arrive in the case of interstate and overseas transportation, or 4 hours after such time in the case of foreign air transportation; or (c) the passenger is accommodated on the flight for which he holds confirmed reserved space, but is offered accommodations or is seated in a section of the aircraft other than that specified in his ticket at no extra charge: *Provided*, That a passenger seated in a section for which a lower fare is charged shall be entitled to an appropriate refund.

§ 250.10 Reports of unaccommodated passengers.

Carriers shall file reports with the Bureau of Accounts and Statistics, in CAB Form 250 (Appendix A of this part),[1] with respect to the applicable markets specified hereinafter, of the total number of revenue passengers boarded and the number of unaccommodated passengers in three categories: denied boarding on aircraft, downgrades and upgrades. The markets for which such reports shall be filed are those for which on-time reporting is filed in accordance with Part 234 of the Board's Economic Regulations and, in addition, New York-San Juan. Local service carriers shall, in addition to reports which may be required by Part 234, file such data for the five top-ranking markets of each. The reports shall cover the third month in each calendar quarter and shall be filed within 45 days after the month covered by the report. In addition, carriers shall file, on a monthly basis, the information requested in Appendix B of this part (CAB Form 251).[1] These reports may be on a system basis or limited to those stations accounting for 67 percent of the carrier's total enplanements, or the top 15 stations, whichever number is greater. The information in Item 4 shall be limited to the passengers enplaned at the reported stations and not the system total. Further, a list of the stations included should be appended to each report. These reports are to be submitted within 30 days after the month covered by the report. Those carriers with both domestic and international operations shall file separate reports for each. Reports covering international operations shall be withheld from public disclosure.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-9739; Filed, Aug. 17, 1967; 8:50 a.m.]

[1] Appendices A and B filed as part of the original document.

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. No. OR–22; Amdt. 1]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegation to Director, Bureau of Operating Rights

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of August 1967.

Concurrently herewith the Board is adopting an amendment to Part 221 (Construction, Publication, Filing and Posting of Tariffs of Air Carriers and Foreign Air Carriers) and a new Part 250 (Priority Rules, Denied Boarding Compensation Tariffs and Reports of Unaccommodated Passengers). In the Preamble to new Part 250, the Board provided that copies of the written statement explaining the terms, conditions, and limitations of denied boarding compensation, filed by carriers pursuant to § 250.9, shall be submitted for examination and approval. It further stated that it would, by concurrent amendment of Part 385, delegate to the Director, Bureau of Operating Rights, the authority to approve or disapprove the statement. The amendment herein gives effect to this determination.

Since this amendment is a rule of internal agency organization and procedure, notice and public procedure are not required, and the rule may be made effective on less than 30 days' notice.

Accordingly, the Civil Aeronautics Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385) by adding a new paragraph (u) to § 385.13, effective October 17, 1967, to read as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

* * * * *

(u) Approve or disapprove written statements filed by air carriers pursuant to § 250.9 of this chapter (Economic Regulations) explaining the terms, conditions, and limitations of denied boarding compensation provided by Part 250 of this chapter.

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply sec. 1001, 72 Stat. 788; 49 U.S.C. 1481, and Reorganization Plan No. 3 of 1961, 26 F.R. 5989)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-9740; Filed, Aug. 17, 1967; 8:47 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Redevelopment Agency of City of Vallejo Marina Vista Project Area Parking Lease Revenue Bonds

§ 1.190 Redevelopment Agency of the City of Vallejo Marina Vista Project Area Parking Lease Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule that the $415,000 Marina Vista Project Area Parking Lease Revenue Bonds of the Redevelopment Agency of the City of Vallejo are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Redevelopment Agency of the City of Vallejo is a public body, corporate and politic, created under the Community Redevelopment Law of the State of California. Under the law, the Agency has power to issue bonds for any of its corporate purposes. It is engaged in the redevelopment of the Marina Vista Project Area of the City of Vallejo and has resolved to issue these bonds to finance the acquisition of facilities for free off-street public parking for the benefit of the project area.

(2) The parking facilities acquired will be leased to the City of Vallejo, which has agreed to pay as rental to the Agency an amount sufficient to pay the principal of and interest on the bonds and any expenses of the Agency for insurance, taxes, or assessments relating to the parking facilities. The City, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $415,000 Marina Vista Project Area Parking Lease Revenue Bonds of the Redevelopment Agency of the City of Vallejo are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24, and as such are eligible for purchase, dealing in, underwriting and unlimited holding by national banks.

Dated: August 14, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-9728; Filed, Aug. 17, 1967; 8:46 a.m.]

PART 1—INVESTMENT SECURITIES REGULATION

Thomaston-Upson County Office Building Revenue Bonds

§ 1.191 Thomaston-Upson County Office Building Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule that the $390,000 Thomaston-Upson County Office Building Authority Revenue Bonds, Series 1967, are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks pursuant to paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* The Thomaston-Upson County Office Building Authority is a public corporation and instrumentality of the State of Georgia created by an amendment to the Constitution of the State of Georgia for the purpose of acquiring, constructing, equipping, maintaining and operating self-liquidating projects embracing buildings and facilities for use by the City of Thomaston and for use by such other agencies and political subdivisions of the State of Georgia or the Government of the United States as may contract with the Authority for the use of such facilities. The Authority is issuing these bonds to finance the construction of a county jail and of a new county office building and additions and improvements to the present Upson County Building which will be leased to Upson County. Under the lease rental agreement, the County agrees to levy an annual ad valorem tax on all taxable property within the County at such rates as may be necessary to make the rental payments to enable the Authority to pay the principal of and interest on the bonds as the same shall mature and acknowledges that the obligation to make the payments required shall be deemed to be a general obligation of the County.

(c) *Ruling.* It is our conclusion, therefore, that the $390,000 Thomaston-Upson County Office Building Authority Revenue Bonds, Series 1967, are general obligations of a State or political subdivision thereof under paragraph Seventh of 12 U.S.C. 24, and as such are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks.

Dated: August 14, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-9729; Filed, Aug. 17, 1967; 8:47 a.m.]

PART 1—INVESTMENT SECURITIES REGULATION

San Carlos Civic Center Authority Lease Revenue Bonds

§ 1.192 San Carlos Civic Center Authority Lease Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule that

the $1,900,000 San Carlos Civic Center Authority 1967 Revenue Bonds, are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The San Carlos Civic Center Authority is a public entity created under the laws of the State of California by an agreement between the City of San Carlos and the County of San Mateo. The Authority is empowered by the agreement to acquire, construct, and lease certain public buildings and to issue bonds to finance such projects. It is issuing these bonds to acquire an existing public library, now owned by the County, which will be leased back to the County, and to construct a civic center complex to house all departments of the City government which will be leased to the City.

(2) Under the agreement, the County has unconditionally promised to pay certain fixed annual rentals to the Authority and the City has unconditionally promised to pay annual rentals to the Authority in an amount, which when added to the rental payments of the County, will be sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City, which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $1,900,000 San Carlos Civic Center Authority 1967 Revenue Bonds, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, as such, are eligible for purchase, dealing in, underwriting and unlimited holding by national banks.

Dated: August 14, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-9730; Filed, Aug. 17, 1967; 8:47 a.m.]

PART 1—INVESTMENT SECURITIES REGULATION

Los Angeles County-West Covina Civic Center Authority Citrus District Courthouse Revenue Bonds

§ 1.193 Los Angeles County-West Covina Civic Center Authority Citrus District Courthouse Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule that the $1,600,000 Los Angeles County-West Covina Civic Center Authority, Citrus District Courthouse Revenue Bonds are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Los Angeles County-West Covina Civic Center Authority is a public entity created under the laws of the State of California by an agreement between the County of Los Angeles and the City of West Covina. Under this agreement, the Authority is empowered to acquire land and construct and lease public buildings and to issue bonds to finance such projects. The Authority is issuing these bonds to finance such projects. The Authority is issuing these bonds for the purpose of constructing public buildings which will be leased to the County.

(2) Under the lease-rental agreement the County has unconditionally promised to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The County, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, therefore, that the $1,600,000 Los Angeles County-West Covina Civic Center Authority, Citrus District Courthouse Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and, as such, are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks.

Dated: August 14, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-9731; Filed, Aug. 17, 1967; 8:47 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-194]

PART 1—GENERAL PROVISIONS

Field Audit Staff and Customs Agency Service

The purpose of the following amendments to the Customs Regulations is to effect changes in the organization of the Field Audit Staff and the Customs Agency Service.

Audit activities in Customs Region No. 5, with headquarters at New Orleans, La., presently under the jurisdiction of the Director, Field Audit, Miami, Fla., are being assigned to the office of the Director, Field Audit, Houston, Tex. To reflect this change the table in § 1.4a of the Customs Regulations is amended as follows:

1. The column headed "Audit Office" is amended by moving the word "Branch" from its present position below "Miami" to a position below "Houston."

2. The column headed "Address" is amended by moving the address "U.S. Customhouse, New Orleans, La. 70130" from its present position below the address of the Miami Audit office to a position below the address of the Houston Audit office.

3. The column headed "Customs Regions" is amended by deleting "and V" in the line opposite the address of the Miami Audit office, and by adding "V and" before "VI" in the line opposite the address of the Houston Audit office.

(R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

The offices of the Customs Agent in Charge, New Orleans, La., and the Customs Agent in Charge, Mobile, Ala., in Customs Agency Service Region No. 2 are being transferred to Region No. 3 under the jurisdiction of the Supervising Customs Agent, Houston, Tex.

The geographical jurisdiction of the Customs Agents in Charge, Mobile, Ala., and Jacksonville, Fla., is changed to divide the northern part of the State of Florida at the east bank of the Ochlockonee River.

The Republic of Cuba has been removed from the jurisdiction of the Supervising Customs Agent, Miami, Fla.

The jurisdiction of the Senior Customs Representative, Mexico City, has been extended to include all other Latin American countries.

The geographical jurisdiction of the Senior Customs Representatives at Paris, France, and Frankfurt, Germany, has been changed. The Senior Customs Representative, Paris, France, has been assigned complete jurisdiction of customs investigations in Belgium.

The jurisdiction of the Senior Customs Representative, Hong Kong, B.C.C., has been extended to include a larger area in the Far East.

To reflect the changes in the Customs Agency Service the table in § 1.5 is amended as follows:

1. In Customs Agency Service Region No. 2 make the following changes:

In the column headed "Area of jurisdiction (Customs districts and foreign countries)" the area of jurisdiction of the Supervising Customs Agent, Miami, is amended by deleting "the republic of Cuba."

Under "Customs Agency Service Suboffices" the column headed "Headquarters" is amended by deleting therefrom "Customs Agent in Charge, Mobile" and "Customs Agent in Charge, New Orleans."

In the column headed "Geographical jurisdiction" the geographical jurisdiction of the Customs Agent in Charge, Jacksonville is amended to read as follows:

That part of the State of Georgia extending south of a line drawn from Brunswick along U.S. Route 84 to Waycross and along Route 82 to the Alabama border; and that part of northern Florida lying east of the east bank of the Ochlockonee River and bounded on the south by a line drawn from Cedar Key to Ocala to Daytona Beach.

The column "Geographical jurisdiction" also is amended by deleting therefrom the descriptions of the geographical jurisdiction of the Customs Agents in Charge, Mobile and New Orleans.

2. In Customs Agency Service Region No. 3 make the following changes:

Under "Customs Agency Service Suboffices" the column headed "Headquarters" is amended by inserting below "Senior Customs Representative, Mexico

City" the words "Customs Agent in Charge, Mobile" and immediately following the words "Customs Agent in Charge, New Orleans."

In the column headed "Geographical jurisdiction" the geographical jurisdiction of the Senior Customs Representative, Mexico City, is amended to read:

The Republic of Mexico and all other Latin American Countries.

The column headed "Geographical jurisdiction" also is amended by inserting below "The republic of Mexico" a description of the geographical jurisdiction of the Customs Agent in Charge, Mobile, reading:

The State of Alabama; that part of the State of Mississippi lying south of 31° north latitude; that portion of Tennessee east of the western crossing of the Tennessee River; and that part of the State of Florida lying west of the east bank of the Ochlockonee River.

and immediately following a description of the geographical jurisdiction of the Customs Agent in Charge, New Orleans, reading:

All the States of Louisiana (except the parishes of Cameron and Calcasieu), Mississippi (except that part lying south of 31° north latitude), and Arkansas; and that portion of Tennessee west of the western crossing of the Tennessee River.

3. In Customs Agency Service Region No. 6 the geographical jurisdiction of the Senior Customs Representative, Paris, France, is amended to read:

France, Luxemburg, Monaco, Belgium.

and the geographical jurisdiction of the Senior Customs Representative, Frankfurt, Germany, is amended to read:

The Netherlands, Denmark, Norway, Sweden, Finland, Germany, Austria, Liechtenstein.

4. In Customs Agency Service Region No. 7 the geographical jurisdiction of the Regional Customs Representative, Tokyo, Japan, is amended to read:

That part of the Far East north of Okinawa, and Okinawa.

and the geographical jurisdiction of the Senior Customs Representative, Hong Kong, B.C.C., is amended to read:

Australia and New Zealand; that part of the Far East south of Hong Kong; Hong Kong and Taiwan.

(R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

These amendments shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: August 10, 1967.

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 67-9732; Filed, Aug. 17, 1967; 8:47 a.m.]

[T.D. 67-196]

PART 12—SPECIAL CLASSES OF MERCHANDISE

Entry of Motor Vehicles and Motor Vehicle Engines Under Motor Vehicle Air Pollution Control Act [1]

Under the provisions of the Motor Vehicle Air Pollution Control Act (Title II of the Clean Air Act, as added by Public Law 89-272), 42 U.S.C. 1857, et seq., the Department of Health, Education, and Welfare, in 45 CFR, Part 85 has promulgated regulations which prescribe standards for the prevention or control of air pollution that must be met by certain new motor vehicles or new motor vehicle engines. These regulations are applicable to new motor vehicles and new motor vehicle engines beginning with the model year 1968.

The importation into the United States for sale or resale of any new motor vehicle or new motor vehicle engine manufactured after the effective date of regulations under the Motor Vehicle Air Pollution Control Act is prohibited unless such motor vehicle or engine is in conformity with the standards so prescribed. To prescribe regulations providing for the admission or refusal of new motor vehicles or new motor vehicle engines subject to standards promulgated under the provisions of the Motor Vehicle Air Pollution Control Act which are offered for importation into the United States, Part 12 is amended to add a new center head and section as follows:

NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

§ 12.73 Motor vehicle air pollution control.

(a) *Standards prescribed by the Department of Health, Education, and Welfare.* Certain new motor vehicles or new motor vehicle engines are subject to the standards prescribed by the Secretary of Health, Education, and Welfare under section 202 of the Motor Vehicle Air Pollution Control Act (42 U.S.C. 1857f-1),[1a] as set forth in regulations in 45 CFR Part 85. A new motor vehicle or a new motor vehicle engine subject to such standards is not permitted entry into the United States unless it is in all material respects the same construction as a test vehicle or engine which has been certified to be in conformity with such standards or otherwise approved by the Secretary of Health, Education, and Welfare, in accordance with said regulations in 45 CFR Part 85.

(b) *Requirements for entry and release.* Each motor vehicle or motor vehicle engine offered for importation (other than for personal use by the importer) into the customs territory of the United States shall be refused entry unless there is filed with the entry, in duplicate, a declaration verified by the importer or consignee which identifies it and affirms that:

(1) Such motor vehicle or motor vehicle engine is not subject to the Motor Vehicle Air Pollution Control Act for reasons specified in the declaration (e.g., the vehicle or engine was manufactured prior to Mar. 30, 1966, the effective date of the regulations promulgated in 45 CFR Part 85; the vehicle or engine is not "new" within the meaning of section 208(3) of the Motor Vehicle Air Pollution Control Act; the vehicle or engine is a pre-1968 year model; etc.); or

(2) Such motor vehicle or motor vehicle engine is in all material respects the same construction as a test vehicle or engine;

(i) For which a certificate of conformity identified by number and date has been issued in accordance with regulations in 45 CFR Part 85, or for which a determination of conformity has been made under such part, by the Secretary of Health, Education, and Welfare, and is being entered during a period for which such determination or certification is valid; or

(ii) For which application for a determination or certification of conformity is pending before the Secretary of Health, Education, and Welfare, in accordance with regulations in 45 CFR Part 85; or

(3) The importer or consignee has undertaken, in accordance with 45 CFR 85.203(a), to bring any motor vehicles or motor vehicle engines identified as part of the entry and subject to the Motor Vehicle Air Pollution Control Act into conformity with a test vehicle or engine approved or certified in accordance with 45 CFR Part 85, or for which application for such approval or certification is pending.

No written declaration shall be required under this paragraph for the importation of an individual motor vehicle or motor vehicle engine unless the district director of customs has reason to believe that the importation is being made for purposes of resale and not for the personal use of the importer. The duplicate copy of any declaration filed under this paragraph shall be forwarded by the district director of customs directly to the Surgeon General, Department of Health, Education, and Welfare, Washington, D.C.

(c) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b) (2) (ii) or (3) of this section, the entry shall be accepted only if the importer gives a bond on customs Form 7551, 7553, or 7595 for the production of a statement

[1] See also 45 CFR Part 85, F.R. Doc. 67-9718, infra.

[1a] As defined in the Motor Vehicle Air Pollution Control Act, a new motor vehicle or new motor vehicle engine is one the equitable or legal title to which has never been transferred to an ultimate purchaser; and an ultimate purchaser is the first person who in good faith purchases such new motor vehicle or new engine for purposes other than resale. (42 U.S.C. 1857f-7 (3), (5))

certifying in accordance with 45 CFR 85.203(c) that the motor vehicles or motor vehicle engines described in the declaration filed by the importer conform in all material respects with a test vehicle or engine which has been certified or approved for a period during which the entry of such vehicles or engines is made. The bond shall be in the amount required under § 25.4(a) of this chapter. Within 90 days after such entry, or such additional period as the district director of customs may allow for good cause shown, the importer or consignee shall deliver to the district director the certified statement described in this paragraph. If the certified statement described in this paragraph is not delivered to the district director of customs for the port of entry of such vehicles or engines within 90 days of the date of entry or such additional period as may be allowed by the district director, for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director of customs those motor vehicles or motor vehicle engines which were released in accordance with this paragraph. In the event that any such motor vehicle or motor vehicle engine is not redelivered within 5 days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a bond given on Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence if the merchandise had been released under a bond given on Form 7551.

(d) *Merchandise refused entry.* If a new motor vehicle or new motor vehicle engine is denied entry under the provisions of paragraph (b) or (c) of this section, the district director of customs shall refuse to release the merchandise for entry into the United States and shall issue a notice of such refusal to the importer.

(e) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* New motor vehicles or new motor vehicle engines which are denied entry under paragraph (b) or (c) of this section or which are redelivered in accordance with paragraph (c) of this section and which are not exported under customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery shall be disposed of under customs laws and regulations: *Provided, however,* That any such disposition shall not result in an introduction into the United States of a new motor vehicle or new motor vehicle engine in violation of the Motor Vehicle Air Pollution Control Act. (Sec. 484, 46 Stat. 722, as amended, sec. 203, 79 Stat. 993; 19 U.S.C. 1484, 42 U.S.C. 1857f–2.)

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

Since motor vehicles and motor vehicle engines subject to the standards prescribed in 45 CFR Part 85 may now be in transit to U.S. ports for entry, it is important that these regulations be put in effect at the earliest possible date. It is therefore found that notice and public procedure under 5 U.S.C. 553 is impracticable and good cause is found for adopting these regulations effective upon publication in the FEDERAL REGISTER.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: July 31, 1967.

TRUE DAVIS,
Assistant Secretary of the Treasury.

Approved: August 14, 1967.

JOHN W. GARDNER,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 67–9719; Filed, Aug. 17, 1967; 8:46 a.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Subpart—Importation of New Motor Vehicles or New Motor Vehicle Engines [1]

The following regulations establish procedures for the importation of new motor vehicles and new motor vehicle engines into the United States pursuant to section 203(b)(2) of the Clean Air Act. Copies of proposed procedures were forwarded on June 13, 1967, to representatives of all foreign manufacturers known to be importing automobiles into the United States, together with notice of a meeting affording them an opportunity to discuss the proposal with representatives of the Department of Health, Education, and Welfare. The meeting was held on July 24, 1967, and the regulations set forth below incorporate procedures agreed upon by this Department and those persons who submitted written or oral comments.

[1] See also 19 CFR Part 12, F.R. Doc. 67–9719, supra.

The importation of vehicles and engines subject to the Clean Air Act is prohibited unless such vehicles and engines conform to the applicable standards which were published effective March 30, 1966 (31 F.R. 5170). The regulations below establish procedures for the entry of vehicles and engines which presently conform to such standards as well as those which this Department determines will be brought into conformity with such standards subsequent to entry.

Since failure to adopt the necessary procedures promptly would work to the detriment of those affected by them, the Department finds that it is in the public interest and that good cause exists for the adoption of these regulations effective immediately upon publication in the FEDERAL REGISTER. To insure that all parties and interests may participate in the further formulation of the regulations, interested persons are invited to submit data, views, comments, or arguments concerning the regulations hereby promulgated within 30 days after the publication of this document in the FEDERAL REGISTER in writing by mail to the Secretary, Health, Education, and Welfare, Attention: National Center for Air Pollution Control, Washington, D.C. 20201. Consideration will be given such submissions with a view to making any amendments to the regulations that are found to be necessary or desirable as fully as though such submissions had been received in response to a proposal.

Subpart—Importation of New Motor Vehicles or New Motor Vehicle Engines

Sec.
85.200 Applicability.
85.201 Determination of conformity of new motor vehicles and new motor vehicle engines not covered by certification.
85.202 Admission of new motor vehicles and new motor vehicle engines covered by certification or determination of conformity.
85.203 Admission of new motor vehicles and new motor vehicle engines not covered by certification or determination of conformity at the time of entry.
85.204 Notice to Customs officials.

AUTHORITY: The provisions of this subpart issued under sec. 203, 79 Stat. 993, 42 U.S.C. 1857f–2.

§ 85.200 Applicability.

The provisions of this subpart are applicable to new motor vehicles and new motor vehicle engines which are subject to the standards prescribed in this part and are offered for importation into the United States by a manufacturer for sale or resale. As used in this subpart, the term United States means the customs territory of the United States as defined in 19 U.S.C. 1202 and the Virgin Islands, Guam, and American Samoa.

§ 85.201 Determination of conformity of new motor vehicles and new motor vehicle engines not covered by certification.

(a) Any manufacturer of new motor vehicles or new motor vehicle engines not covered by a certificate of conformity issued under § 85.62, who desires to import such vehicles or engines into the United States for sale or resale, may submit a request meeting all the requirements of § 85.61(b), for a determination by the Secretary whether the vehicle or engine is in conformity with the standards prescribed in this part.

(b) If, after a review of the test reports and data submitted by the manufacturer and data derived from such additional testing as the Surgeon General may conduct, the Secretary determines that the new motor vehicle or new motor vehicle engine conforms to the regulations of this part, he will issue a determination to such effect with respect to such vehicle or engine: *Provided*, That such determination for the purpose of the preceding proviso shall be for a period of not less than 1 model year as the Secretary may prescribe, and may be made upon such terms as he may deem necessary to assure that any new motor vehicle or new motor vehicle engine meeting the requirements of the preceding proviso will meet the requirements of this part relating to durability and performance.

§ 85.202 Admission of new motor vehicles and new motor vehicle engines covered by certification or determination of conformity.

(a) Any new motor vehicle or new motor vehicle engine which is in all material respects substantially the same construction as the test vehicle or engine for which a certificate of conformity has been issued under § 85.62 or, with respect to which a determination of conformity has been made under § 85.201, shall be deemed to be in conformity with the regulations prescribed in this part and shall not be refused admission into the United States under section 203(b)(2) of the Act, if the entry documents contain a declaration by the manufacturer that such a certificate or determination of conformity has been issued, giving the number and date thereof, and that the new motor vehicle or new motor vehicle engine for which entry is requested is in all material respects the same construction as the test vehicle or engine for which the certificate or determination was issued, and is being entered during the period for which the certificate or determination is effective.

§ 85.203 Admission of new motor vehicles and new motor vehicle engines not covered by certification or determination of conformity at the time of entry.

Any new motor vehicle or new motor vehicle engine which is not in all material respects the same construction as a test vehicle or engine for which a certificate of conformity has been issued or for which a determination of conformity has been made, shall be conditionally admitted in accordance with 19 CFR 12.73(c), but shall be refused final admission into the United States under section 203(b)(2) of the Act, unless:

(a) Not later than 5 days following such conditional admission the Secretary has received a written request submitted by the manufacturer and containing any of the following information and agreements that may be applicable:

(1) A statement that the vehicles or engines are in conformity with a test vehicle or engine for which an application is pending before the Secretary.

(2) A statement specifying the modifications or alterations which are necessary to bring the vehicles or engines into conformity with the regulations, together with assurances satisfactory to the Secretary that such alterations will in fact be accomplished.

(3) The place and date by which the modifications or alterations will be accomplished, said date to be no greater than 75 days from the date of entry.

(4) The place(s) where such vehicles will be stored until a determination of conformity has been made.

(5) An acknowledgement of responsibility for the custody of the vehicles or engines until such time as the Secretary notifies the manufacturer that the vehicles conform to the regulations in this part.

(6) Authorizations for representatives of the Department of Health, Education, and Welfare to inspect the vehicles or engines at any reasonable time for the purpose of making a determination of conformity.

(b) The bonding and entry requirements of the Secretary of the Treasury set forth in 19 CFR 12.73 have been met; and

(c) The Secretary issues to the manufacturer a statement certifying that the vehicles or engines are in conformity with a test vehicle or engine which has been certified or approved for a period during which the entry is made.

§ 85.204 Notice to Customs officials.

The Surgeon General will notify the Commissioner of Customs and the Governors of the Virgin Islands, Guam, and American Samoa of the issuance of certificates of conformity, determinations of conformity, and certifications issued under § 85.203(c).

Dated: July 28, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-9718; Filed, Aug. 17, 1967; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[3d Rev. S.O. 935-A]

PART 195—CAR SERVICE

Appointment of Embargo Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 4th day of August 1967.

Upon further consideration of Third Revised Service Order No. 935 (32 F.R. 5931) and good cause appearing therefor:

It is ordered, That § 195.935 *Service Order No. 935* (Appointment of embargo agents) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That this order shall become effective at 11:59 p.m., August 16, 1967; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of the order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-9745; Filed, Aug. 17, 1967; 8:48 a.m.]

[S.O. 995]

PART 195—CAR SERVICE

Appointment of Embargo Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 4th day of August 1967.

It appearing, that the matter of car service (sec. 1, pars. 10-17, inclusive, of the Interstate Commerce Act) being under consideration, it is the opinion of the Commision that whenever any carrier by railroad, subject to Part I of the Interstate Commerce Act, is unable to control freight traffic movements, because car accumulations, threatened congestions, or other interferences of a temporary nature compel restrictions against car movements, car service will be promoted

in the interest of the public and the commerce of the people by the appointment of agents with authority to direct the placement of embargoes; that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 195.995 Service Order No. 995.

(a) Appointment of embargo agents: R. D. Pfahler, Director, and N. Thomas Harris, Assistant Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C., are hereby appointed agents of the Interstate Commerce Commission and vested with authority to direct the placement of embargoes by railroads at such points where freight cars are being unduly delayed due to accumulations, congestions, or emergency situations.

(b) Embargoes placed under this order shall be at the direction of the agents of the Commission and shall be published through the Association of American Railroads, Car Service Division, and in conformity with the Association of American Railroads' "Instructions to Govern the Placing and Handling of Embargoes" and "Code of Car Service and Per Diem Rules—Freight."

(c) Application: The provisions of this order shall apply to cars moving in intrastate and foreign commerce as well as interstate commerce.

(d) Rules, regulations, and practices suspended: The operation of all rules, regulations, and practices insofar as they conflict with the provisions of this order, is hereby suspended.

(e) Effective date: This order shall become effective at 11:59 p.m., August 16, 1967.

(f) Expiration date: The provisions of this order shall expire at 11:59 p.m., December 31, 1967, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-9746; Filed, Aug. 17, 1967; 8:48 a.m.]

[4th Rev. S.O. 562-A]

PART 197—ROUTING OF TRAFFIC

Rerouting of Traffic; Appointment of Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 4th day of August 1967.

Upon further consideration of Fourth Revised Service Order No. 562 (32 F.R. 5931) and good cause appearing therefor:

It is ordered, That § 197.562 *Service Order No. 562* (Rerouting traffic—appointment of agents) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That this order shall become effective at 11:59 p.m., August 16, 1967; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of the order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-9748; Filed, Aug. 17, 1967; 8:48 a.m.]

[S.O. 994]

PART 197—ROUTING OF TRAFFIC

Rerouting of Traffic; Appointment of Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 4th day of August 1967.

It appearing, that the matter of car service (sec. 1, pars. 10–17, inclusive, of the Interstate Commerce Act) being under consideration, it is the opinion of the Commission that whenever any carrier by railroad, subject to Part I of the Interstate Commerce Act, is, for any reason, unable to transport traffic offered, car service will be promoted in the interest of the public and the commerce of the people by the appointment of agents with authority to reroute and divert such traffic; that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

§ 197.994 Service Order No. 994.

(a) *Rerouting of traffic—appointment of agents.* R. D. Pfahler, Director, and N. Thomas Harris, Assistant Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C., are hereby appointed agents of the Interstate Commerce Commission and vested with authority to authorize diversion and rerouting of loaded and empty freight cars from and to any point in the United States whenever, in their opinion, an emergency exists whereby any railroad is unable to move traffic currently over its lines.

(b) *Application.* The provisions of this order shall apply to shipments moving in intrastate commerce as well as to those moving in interstate commerce.

(c) *Effective date.* This order shall become effective at 11:59 p.m., August 16, 1967.

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1967, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-9747; Filed, Aug. 17, 1967; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER E—DEFENSE CONTRACTING

PART 163—DEFENSE CONTRACT FINANCING REGULATIONS

Miscellaneous Amendments

The following amendments to this Part 163 are issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to authority contained in Department of Defense Directive No. 4105.30, dated March 11, 1959 (24 F.R. 2260), as amended, and 10 U.S.C. 2202.

1. Sections 163.2, 163.3, 163.4, 163.6, 163.12–3, 163.16, 163.17, 163.26, 163.30, and 163.31 are revised to read as follows:

§ 163.2 Purposes.

This part is intended to (a) state basic contract financing policy, (b) assure proper uniformity in policies procedures and forms, (c) provide for application of the fundamental management principle of internal check and balance, (d) insure that the need for advance or progress payments by contractors will not be treated as a handicap in awarding contracts, (e) facilitate and accelerate the making of progress payments requested by small business concerns under Government contracts, and (f) emphasize the usefulness and desirability of providing proper contract financing assistance to small business concerns. In addition, Subpart F of this part provides for the prompt ascertainment and timely collection of contract debts owed to the Department of Defense, provides an inducement for prompt payment by requiring the charging of interest on such indebtedness, states policies governing postponement of payments and covers compromises and other actions on certain claims pursuant to the Federal Claims Collection Act of 1966.

§ 163.3 Application.

This part supersedes all regulations, directives, procedures, and instructions inconsistent herewith. This part applies throughout the Department of Defense. Within this part, the words "Department," "Military Department," "Procuring Activity," and "Secretary," have the same meanings as those defined in §§ 1.201–5, 1.201–6, 1.201–14, and 1.201–15 of this chapter.

§ 163.4 Implementation.

Changes and additions for this part will be developed within the Contract Finance Committee, in the manner contemplated by §§ 163.12–3 and 163.32.

§ 163.6 Guaranteed loans—authority.

(a) Under section 301(a) of the Defense Production Act of 1950, as amended, and section 301 of Executive Order No. 10480, as amended by Executive Order No. 11062, and DoD Directive No. 5100.34, the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Defense Supply Agency, among others, are designated as "guaranteeing agencies," and authorized by section 302(a) of Executive Order No. 10480 "to guarantee in whole or in part any public or private financing institution (including any Federal Reserve Bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan * * * which may be made by such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with the performance of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense, or for the purpose of financing any contractor, subcontractor, or other person in connection with or in contemplation of the termination, in the interest of the United States of any contract made for the national defense."

(b) As defined in section 702(d) of the Defense Production Act of 1950, as amended, "the term 'national defense' means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, and directly related activity."

§ 163.12–3 Responsibility—administration—Contract Finance Committee.

(a) The responsibility for insuring uniform administration of financing in accordance with directions shall be in the Assistant Secretary of Defense (Installations and Logistics). Specific cases need not be referred to the Office of the Assistant Secretary (Installations and Logistics), unless policy or important procedural problems are involved, and the day-to-day financing operations shall be the responsibility of the Military Departments and the DSA.

(b) Responsibility for financing in each Department shall be in the Under or Assistant Secretary responsible for the comptroller function, with the focal point of such activities at Departmental headquarters although contract financing offices may be established at the operational level determined by that Department.

(c) There shall be a Contract Finance Committee composed of a representative of the Assistant Secretary of Defense (Installations and Logistics) as Chairman, a representative of the Assistant Secretary of Defense (Comptroller) and two representatives of each Military Department and the DSA (one representing procurement and one representing the contract finance office), which Committee shall meet upon call by the Chairman, upon his initiative or when requested by a member of the Committee. This Committee shall advise and assist the Assistant Secretary of Defense (Installations and Logistics) in assuring proper and uniform application of policies and the development of procedures and forms, and may from time to time recommend to the Secretary of Defense through the Assistant Secretary of Defense (Installations and Logistics) such further policy directives on the subject of financing as may appear desirable. This Committee shall be responsible also for the formulation, revision and promulgation of uniform regulations on contract financing (§ 163.32). For matters involving guaranteed loans, a representative of the Board of Governors of the Federal Reserve System may be invited to meet with the Committee. The Committee also may from time to time secure the advice of representatives of other branches of the Government and other persons and may invite such representatives and persons to its meetings.

§ 163.16 Uniformity.

Uniform financing policies and, so far as practicable, uniform procedures and standard forms are to be used by the Departments and, to the extent mutually agreed upon by the Departments, facilities and personnel are to be used in common.

§ 163.17 Small business.

Immediate and continuing attention must be given at all levels to insure that constructive measures will be taken to facilitate and accelerate necessary contract financing assistance to small business concerns. Every reasonable effort must be made to assist small business concerns in the resolution of their problems relative to the financing of contract performance, including any cases in which it may be reasonably necessary to increase the rate for progress payments and to assist them in understanding and complying with the requirements of performance as to payment forms, inspection and cost accounting. However, the issuance of a certificate of competency by the Small Business Administration shall not be considered as a requirement that contract financing must be provided by a Department.

§ 163.26 Coordination before contract award.

For effective application of the principles stated in § 163.24, each purchasing office should be staffed with, or have available and use the services of persons qualified and competent to evaluate credit and financial problems. Among other things, the duties of such persons would be to arrange, prior to contract awards, and so far as practicable, prior to subcontract arrangements, that financing for performance of contemplated contracts and subcontracts is reasonably assured prior to or contemporaneously with the making of contracts. In those exceptional cases where there is substantial doubt that a prospective contractor has the financial capacity or credit resources essential to the performance of the contemplated contract, the interested procuring activity, after having determined that no satisfactory alternative sources of supply are readily available on terms equally as favorable to the Government, should prior to placement of the contract, consult with the appropriate contract financing office of the interested Department, to determine whether financing can prudently be arranged. These contract financing officers are the Director of Contract Financing Office of the Comptroller of the Army; the Director of Contract Financing, Office of the Comptroller of

the Navy; the Deputy Comptroller of the Air Force; and the Comptroller, Defense Supply Agency. For other Departments (§ 1.201–5 of this chapter), the contract financing office will be within the office of the Agency Comptroller. In such consultation it should be resolved, if placement of the contract is deemed beneficial to the interests of the Government, whether and by what means financing should be provided.

§ 163.30 Report of adverse developments—prompt decisions.

When materially adverse developments concerning a borrower having a guaranteed loan, or concerning a contractor having advance payments or progress payments, become known to a procuring or contract administration activity, pertinent facts, including report of remedial or protective action taken or proposed, should be reported by the procuring or contract administration activity to the contract financing office of the Department principally concerned with the contract financing, so that timely appropriate protective or remedial action may be taken by coordinated action of all concerned. However, the filing of such reports shall not relieve the personnel responsible for administration of the contract from taking such action as is deemed proper, prudent, and beneficial to the Government. When there are reasons to doubt the prudence of continuing progress payments or advance payments in cases involving performance difficulties or financial deterioration, decision must be made promptly and with proper regard to the harmful effects of delay on the continued operation of the contractors concerned.

§ 163.31 Reports.

Each Department shall submit reports of financing activities at such times and in such form as may be prescribed by the Assistant Secretary of Defense (Installations and Logistics) and approved by or for the Assistant Secretary of Defense (Comptroller).

2. Sections 163.32, 163.33, 163.33a–3, and 163.38 are revised; § 163.38–1 is revoked; and §§ 163.40, 163.40–1, 163.40–2, and 163.42 are revised, as follows:

§ 163.32 Deviations—amendments.

Actions in the exercise of the judgment and discretion allowed by these regulations are not deviations. Actions contrary to or inconsistent with or varying from these regulations would be deviations. Deviations will be permitted only when necessary in exceptional circumstances, after (a) the proposed deviation has been presented to the Contract Finance Committee, (b) the recommendations of that Committee have been obtained, and (c) the approval of the Assistant Secretary of Defense (Installations and Logistics) or his designated representative has been given. The above procedure will be followed also for amendments to this part (see § 163.4.) The provisions of Subchapter A of this chapter pertaining to deviations (§§ 1.109–2 and 1.109–3 of this chapter) and to amendments (§ 1.105 of this chapter) do not apply to these contract financing regulations.

§ 163.33 Interpretations.

It is important that this part and the clauses set forth herein be applied fairly and uniformly for all contractors. When a serious question of interpretation or application of this part arises within a procuring activity, and is regarded as being of general importance, if the circumstances reasonably permit the obtaining of an advance opinion on the question from Departmental headquarters, the question should be presented, through procurement channels, to the procurement policy office at headquarters of the Department primarily interested. If the circumstances do not reasonably permit request for advance opinion, report of an interpretation made (if regarded as important and of general interest for uniform application or interpretation of this part) should be made to the appropriate one of the Departmental headquarters procurement policy offices. Those offices are expected to take appropriate and timely action to obtain the views of interested offices of the other Departments, including the contract financing offices (§ 163.26). When questions submitted are considered to be of importance in the general interest of uniformity and of fair and effective administration of this part, appropriate revision of this part will be considered in the manner outlined in § 163.4. In period between any amendments of this part, it is contemplated that information on important interpretations of general interest, reported to or made at Departmental headquarters, will be made available to procuring activities for dissemination to interested purchasing offices.

§ 163.33a–3 Guaranteed loans for foreign contract performance.

When contracts or subcontracts are to be performed in a foreign country, financing by means of loans guaranteed by the Departments seldom will be practicable because of difficulties of loan administration and enforcement. When loans are to be utilized for financing of such contracts or subcontracts, it is considered generally preferable that the loans be provided within the internal financial system of the foreign country concerned, without Department guarantee.

§ 163.38 Loan guarantees to other Government agencies.

Loan guarantees are not issued to other Departments or Agencies of the Government.

§ 163.38–1 Other Government agencies. [Revoked]

§ 163.40 Guaranteeing agency.

Where a prospective borrower under a V-loan has defense contracts or subcontracts in which more than one of the guaranteeing agencies are interested, the guaranteeing agency in such case will be in general that agency which, as of the time of the application for the guarantee, has the preponderance of interest in such contracts and subcontracts on the basis of the dollar amount of the prospective borrower's unfilled and unpaid balances of such contracts and subcontracts and estimated claims under terminated contracts (exclusive of contracts with advance payments, if such advance payments are not to be liquidated by the proposed guaranteed loan). If the application is approved and a guarantee agreement is executed on behalf of such agency having the preponderance of interest, that agency will bear all losses and expenses and receive all revenues under such guarantee without allocation to other agencies of the Government. In this connection, among the Military Departments (§ 1.201–5 of this chapter), single service procurement contracts are deemed those of the purchasing department. In exceptional cases, one Department may act for others, and sharing arrangements are permitted.

§ 163.40–1 Effect on preponderance of progress payments or denial of certificate of eligibility.

Among the Departments, the determination of preponderance of interest, under § 163.40, is made without regard to the existence of progress payments on particular contracts, and without regard to the issuance or nonissuance of certificates of eligibility on particular contracts.

§ 163.40–2 Shifting of preponderance.

During the course of a guaranteed loan, preponderance of interest in the borrower's defense production contracts may shift from one of the Departments, as guaranteeing agency, to another Department. When such preponderance has shifted materially so that substantial preponderance is in one of the Departments other than the guaranteeing agency, action on requests for increases in the amount of guaranteed loans, and on requests for extension of maturity for a period of more than 6 months, ordinarily will be taken by the Department then having such preponderance of interest. However, in the above situation, action will be taken by the Department which has guaranteed the loan, if the loan is in distress, with fairly foreseeable losses, and the requested extension or increase is for the purpose of orderly liquidation of the loan in a manner designed to reduce the amount of the loss. If such a loan is not in distress, and losses are not fairly foreseeable, and the greater part of the borrower's defense production contracts are determined to be eligible for a continuing guaranteed loan, and the circumstances of the case are such that favorable action would have been taken by the then guaranteeing agency if it had remained preponderantly interested in the borrower's defense production contracts, similar favorable action will be taken by

the Department then having such preponderance of interest. In these cases, while new application for guarantee is required, the file of the contract financing office which has authorized the existing guarantee will be transferred to the contract financing office of the Department then having preponderant interest in the case, and the information to be submitted with the application need be only current financial information, data concerning the borrower's defense production contracts, and other pertinent facts concerning the borrower and his operations, to the extent necessary to supplement and bring up to date the information previously furnished to the guarantor. In order not to disturb or impair any security for the existing loan, and for the convenience of all concerned, it is preferable that the new guarantee merely replace the former guarantee, with appropriate recitals as to cancellation of the former guarantee, and with appropriate revision of the existing loan agreement and of such collateral security instruments as may require revision.

§ 163.42 Asset formula.

It is the policy of the guaranteeing agencies that borrowings under guaranteed loans made primarily for working capital purposes should be limited, in accordance with an asset formula, to amounts which do not exceed specified percentages (90 percent or less) of the borrower's investment in defense production contracts. The formula may include all items for which the borrower would be entitled to payment on performance or termination of defense contracts, but would not include any amounts (for which no work has been done nor expenditures made by the borrower) to become due as the result of later performance under the borrower's contracts. However, any such asset formula would be subject to relaxation in appropriate cases to the extent and for the time actually necessary for contract performance where the contractor's working capital and credit are inadequate. This "asset formula" does not include "cash collateral" or bank deposit balances. When progress payments are involved, they are deducted last, to produce a safer borrowing base.

3. Paragraph (a) in § 163.49 is revised; and §§ 163.56–1, 163.62–1, 163.70, 163.72, 163.74, 163.77, 163.78–1, 163.78–7, and 163.79 are revised, as follows:

§ 163.49 Procedure for certificate of eligibility.

* * * * *

(a) As indicated in § 163.48(b), the determination in the certificate of eligibility is based upon giving full weight to practical considerations. It is also intended that in determining whether the materials or services can be procured readily from an alternative source without prejudice to the national defense, due consideration will be given to the effect of the use of alternative sources on established major policies affecting procurement, such as those relating to the mobilization base. If the reletting of contracts with other sources would involve conflict with any of such policies, such reletting in conflict with any such policy should be deemed prejudicial to the national defense. Also, in considering the practicability of alternative sources, in addition to the considerations outlined above, regard should be given to the question whether such potential alternate sources would require Government financing by progress payments, or advance payments, or Government supported financing by means of a guaranteed loan. If such financing would be required for alternative sources, such alternate sources may be fairly considered not "readily available" within the meaning of the certificate of eligibility.

* * * * *

§ 163.56–1 Delegation of authority.

The authority in each case to make findings and determinations with respect to advance payments and to approve contract provisions for advance payments, or to authorize the terms and conditions thereof, may be delegated within each Department no further than, to the Comptroller of the Army (and an alternate within his office) in the Department of the Army; to the Director of Contract Financing (and an alternate within his office) in the Department of the Navy; to the Deputy Comptroller of the Air Force (and an alternate responsible to such Deputy Comptroller); and to the Comptroller, Defense Supply Agency, or an alternate responsible to him. For other Departments (§ 1.201–5 of this chapter), this delegation of advance payment authority may be only to the Comptroller of the Agency, or an alternate responsible to him. However, to the extent deemed necessary or prudent and efficient under exceptional circumstances, further delegations of this advance payment authority may be made with the approval of the Assistant Secretary of Defense (Installations and Logistics).

§ 163.62–1 Action by contracting officer—disapproval.

If the contracting officer determines that the requested advance payment should be disapproved, the contractor's request, information submitted, report of investigation (if any), and statement of reasons for adverse determination should be sent forward immediately to the appropriate contract financing office (§ 163.26). This information may be useful in connection with existing or prospective arrangements for other financing, and for such further action as may be appropriate to enhance uniform application of this part.

§ 163.70 Percentage or stage of completion.

Progress payments based on a percentage or stage of completion will be confined to contracts for construction (§ 10.101–6 of this chapter), shipbuilding and ship conversion, alteration or repair. For all other contracts, including any separate contracts for engines, machinery, equipment, or other components for ships, the only types of progress payment provisions will be those based on costs, as authorized herein. However, on existing contracts which provide for progress payments based on a percentage or stage of completion, it is not required that provision for progress payments based on costs be substituted in connection with future amendments, supplements, or modifications, if such substitution is found impracticable.

§ 163.72 Customary progress payments—standards.

(a) Certain types of contracts involve a long "lead time" or preparatory period, normally approximating 6 months or more between the beginning of work and the first delivery, and may require contractor's predelivery expenditures that will have a material impact on the contractor's working funds. Familiar examples include, among others, contracts for aircraft, engines, complex items of electrical or electronics equipment, heavy handling equipment, production machines and equipment, tanks and other items of heavy ordnance.

(b) Progress payments have been traditional and customary on this class of contracts, on the basis of a percentage of total costs or of direct labor and material costs.

(c) Percentages for customary progress payments shall be not more than 70 percent of total costs or 85 percent of direct labor and material costs of the work done under the undelivered portion of the contract, except that for negotiated contracts with small business concerns and for procurement by "Small Business Restricted Advertising" or pursuant to § 163.73–3, these percentages may be 75 percent of total costs or 90 percent of direct labor and material costs whenever deemed reasonably necesary. Higher percentages will be regarded as unusual, and not within the category of customary progress payments.

(d) The long lead time or preparatory period in these cases, and the accompanying predelivery expenditures that may have a material impact on the contractor's working funds, are regarded as making these customary progress payments reasonably necessary, and as making the general preference for private financing not applicable to this class of cases. Provision for customary progress payments will be made as a matter of course when requested by contractors who are known (from experience or adequate preaward investigation) to be reliable, competent, capable of satisfactory performance, in satisfactory financial condition, and to have an adequate accounting system and controls. In such cases, it is not necessary to require projections of cash receipts and expenditures or other demonstration of actual reasonable need for progress payments. However, in order to minimize administrative effort and expense, progress payments will be discouraged on relatively small contracts of the stronger and larger contractors who are not small business concerns, e.g., contracts for less than $1,000,000, unless the circumstances of a group of such contracts, for contemporaneous performance, make such contracts the approximate equivalent of a larger contract that would have a material impact

on the contractor's working funds. If a small business concern, and the contract involved, meet the above standards for customary progress payments, the smallness of the contract shall not deter the making of provision for customary progress payments to such small business concerns.

(e) Progress payments, at standard percentages, may be provided on letter contracts without regard to the length of lead time (§ 163.84).

§ 163.74 Unusual progress payments—standards—procedure.

(a) Progress payments based on costs, other than progress payments of the class and within the limits set forth in §§ 163.72 and 163.73, will be regarded as unusual, and will require special approval. This is deemed necessary for the purpose of minimizing risks, and in order to establish and maintain the greatest practicable uniformity with regard to such progress payments within and among the Departments. Any contractor seeking provision for progress payments that is "unusual," within the meaning of this part, will be required to demonstrate fully his actual need therefor, with due regard to the preference for private financing, including guaranteed loans. Requests for "unusual" progress payments shall be approved only under exceptional circumstances and must have the specific approval of the Head of a Procuring Activity (§ 1.201–7 of this chapter) or of a general or flag officer designated for that purpose.

(b) Such cases must involve a preparatory period requiring contractor's predelivery expenditures that are large in relation to the contract price and in relation to the contractor's working capital and credit. Contract provisions for progress payments in this category will be only supplementary to private financing, including guaranteed loans, in amounts necessary for contract performance. The percentage rates and costs bases for progress payments in this category will be determined on a minimum basis commensurate with the contractor's production schedule requirements and minimum inventory lead time, with due regard to the contractor's projected cash needs, cash resources and their planned application.

(c) All requests involving progress payments at rates exceeding 85 percent (or 90 percent for small business concerns) of direct labor and material costs or exceeding 70 percent (or 75 percent for small business concerns) of total costs, if regarded favorably by the Head of a procuring Activity (§ 1.201–7 of this chapter) or by a specially designated general or flag officer within a procuring activity, will be forwarded, with supporting information, for approval of a designated office or person at Departmental Headquarters of the Department directly concerned. Such office or person may be the contract financing office at Departmental headquarters or such person or persons, located at Departmental headquarters and responsible to the Under or Assistant Secretary responsible for the comptroller function, as may be designated for this purpose by such Under or Assistant Secretary. Such requests, before approval, will be coordinated speedily with representatives of the other Departments and of the Assistant Secretary of Defense (Installations and Logistics). Progress payments at standards rates (§ 163.72) on letter contracts are not deemed unusual.

§ 163.77 Advance payments.

When advance payments and progress payments are authorized in the same contract, progress payment percentages will not exceed the standard percentages mentioned in §§ 163.72 and 163.73.

§ 163.78–1 Progress payments.

See § 163.11. The term "progress payments" must be distinguished from "partial payments." The term "partial payments" describes only (a) payments for partial deliveries accepted by the Government under a contract, or (b) specified payments for significant "milestones" of accomplished performance, and (c) partial payments on contract termination claims.

§ 163.78–7 Contract price.

The term "contract price" means the total amount fixed by the contract (other than any portion of the contract specifically providing for cost reimbursement only), as amended, to be paid for complete performance of the contract. If the contract provides for escalation or for redetermination of price, this term means the initial price until changed and not the ceiling price. If the contract is of the incentive type, the term means the ceiling or maximum price. For letter contracts and similar preliminary contractual instruments, this term means the maximum expenditure authorized by the contract, as amended.

§ 163.79 Contract clauses.

One of the following Progress Payments clauses shall be used whenever progress payments are to be made to a contractor based upon a percentage of costs.

4. Paragraph (c) of § 163.81–2 is revised; §§ 163.85, 163.85–1, 163.85–2, 163.85–3, 163.85–4, 163.85–5, and 163.85–6 are revoked; and in § 163.86, paragraph (a) is revised, as follows:

§ 163.81–2 Alternate method.

* * * * *

(c) With regard only to items for which final prices have been established under contracts, progress payment liquidation percentages conforming to the standards stated in paragraph (a) of this section, but less than the minimum liquidation percentages stated and outlined in paragraph (b) of this section (e.g., less than 70 percent when progress payments are based on 75 percent of total costs or less than 65.3 percent when progress payments are based on 70 percent of total costs) may be established by amendment of contracts, or initially on firm fixed price contracts only, upon submission of satisfactory information by the contractor showing separately (1) the cost of items that have been delivered, accepted, and invoiced, (2) the cost of work not delivered, accepted, and invoiced, (3) the estimated costs of completion, and (4) for amendments, an applicable profit on the items for which final prices have been established that is higher than the amount of profit permitted to be released by application of the progress payment liquidation percentage then specified in the contract.

* * * * *

§ 163.85 Transition. [Revoked]

§ 163.85–1 Separate contracts. [Revoked]

§ 163.85–2 Existing indefinite quantity contracts. [Revoked]

§ 163.85–3 Supplements, amendments, and modifications—when new clause not required. [Revoked]

§ 163.85–4 Supplements, amendments, and modifications—gradual operation of new clause. [Revoked]

§ 163.85–5 Supplements, amendments, and modifications concerning progress payments. [Revoked]

§ 163.85–6 Amendments reducing the rate of progress payments. [Revoked]

§ 163.86 Contracting financing office clearance.

* * * * *

(a) Those involving progress payments at rates exceeding 85 percent of direct labor and material costs or exceeding 70 percent of total costs, except as authorized by §§ 163.72 and 163.73;

* * * * *

5. Sections 163.88, 163.92, 163.92–1, 163.93–3, 163.96, 163.97, 163.98, and 163.98–1 are revised to read as follows:

§ 163.88 Contractor's request.

All invoices for progress payments on contracts containing the Progress Payment clause set out in § 163.79, and on contracts containing any deviation from that clause approved pursuant to §§ 163.86 and 163.87, will be supported by the Contractor's Request for Progress Payment (DD Form 1195) with any supporting information that may be reasonably required. The use of this form is subject to the instructions set forth on the reverse thereof.

§ 163.92 Maximum unliquidated amount.

In all cases where the contract price is sufficient to cover all costs of complete performance, and liquidation of progress payments is effected in accordance with § 163.79–1(b) or § 163.79–2(b) the amount of unliquidated progress payments will never exceed the maximum limit provided by § 163.79–1(a)(3)(i) or § 163.79–2(a)(3)(i), unless liquidation percentages have been based on cost estimates that are less than actual costs. In such cases, if the contract involves a profit to the contractor, the actual unliquidated progress payment amount

will always be less than the maximum limit stated in § 163.79–1(a)(3)(i) and § 163.79–2(a)(3)(i) after the first delivery payment unless liquidation percentages have been based on cost estimates that are less than actual costs. So long as performance is satisfactory and there is no reason to believe that the contract will involve a loss to the contractor or that a liquidation rate fixed pursuant to § 163.81–2 or § 163.79–2(b) is too low, there will be no need or reason to verify the relationship of the amount of unliquidated progress payments to the maximum limit prescribed by § 163.79–1(a)(3)(i) and § 163.79–2(a)(3)(i). However, when the rate or quality of performance is unsatisfactory, or the rate of rejections is unduly high, or there is excessive wastage or spoilage, or it appears that unduly low costs have been attributed by the contractor to delivered items, or a loss to the contractor is otherwise indicated, or that the liquidation rate is too low, careful examination should be made to determine whether or not the unliquidated progress payments exceed the maximum amount permitted by § 163.79–1(a)(3)(i) or § 163.79–2(a)(3)(i). The services of the cognizant audit agency should be utilized to the fullest extent available, together with the services of qualified cost analysis and engineering personnel as required. See § 163.88 and section III, General Instructions, DD Form 1195.

§ 163.92–1 Quarterly statements on price revision contracts.

Many price revision contracts now contain the payment limitation provisions required by Department of Defense Directive No. 4105.7 and substantially as set forth in §§ 7.108 and 7.109 of this chapter. Quarterly statements submitted by contractors pursuant to those contract provisions should be compared from time to time with the Contractor's Request for Progress Payments in order to assure so far as reasonably possible that costs attributed to delivered items on the quarterly statements are excluded from the costs set forth as the basis for unliquidated progress payments on the DD Form 1195. If there is apparent disparity, request for completion of section III of the DD Form 1195 (§ 163.88) would be appropriate.

§ 163.93–3 Excessive inventory.

When inventory allocated to the contract is found substantially to exceed reasonable requirements (§ 163.79–1(c)(3) and § 163.79–2(c)(3)), the simplest form of adjustment to correct or avoid overpayment will be to eliminate the costs of such excess inventory from the costs shown in item 7 of the contractor's request set out in DD Form 1195. If that is not regarded as sufficient in a particular case, or if the adjustment in item 7 of the request will not accomplish full correction, additional deductions, to the extent necessary for the correction, should be made, to liquidate progress payments, incident to billings for payments other than progress payments. Transfer of such excess inventory from the contract should also be required. The expression "reasonable requirements" includes a reasonable accumulation of inventory for future use to assure continuity of operations.

§ 163.96 Amendments to provide progress payments.

There should be ordinarily no occasion to amend contracts to provide for progress payments unless there has been material change from the circumstances contemplated by the parties when invitations for bids were issued or the contract was entered into without progress payment provisions. However, cases do occur (a) in which the actual lead time or preparatory period between the beginning of work and the first delivery substantially exceeds the estimated lead time and in fact runs or will run over 6 months (§ 163.72) or (b) in which unusual circumstances bring about unexpected substantial accumulation of predelivery costs having material impact on the contractor's working funds (§ 163.74). These cases may arise from occurrences such as (1) uncertainties or errors in specifications, (2) contract change notices, (3) Government delays in testing, inspection, furnishing of material or equipment, furnishing of stock numbers, packaging or shipping instructions or shipping documents, or completion of contract supplements, (4) stretch-outs or stop-work orders, (5) performance difficulties of subcontractors and suppliers, and (6) causes beyond the control and without the fault or negligence of the contractor, of the kinds mentioned in § 8.707(c) of this chapter. In these kinds of cases, requests of contractors for amendments to provide progress payments should be considered promptly, in the light of the circumstances then existing. If the circumstances then existing approximate conditions under which progress payments would have been properly provided in conformity with this part at contract inception, if the new circumstances had been foreseen, progress payments should be provided by amendment. In this connection, see particularly §§ 163.15, 163.17, 163.18, 163.19, 163.20, 163.23, 163.23–1, 163.74, and 163.97. In conformity with the standards and procedures of § 7.505 of this chapter, unusual progress payments may be provided by amendment.

§ 163.97 Consideration for amendments providing for progress payments.

Contracts may not be modified except in the interest of the Government. Contracts may be amended to provide for progress payments or larger progress payments only when the amendment provides new and valuable consideration moving to the Government. Appropriate price reduction may provide this consideration. In the varying circumstances of individual cases, the consideration for progress payments need not necessarily be monetary. Agreements by the contractor, incorporated in such an amendment, for the benefit of and substantially advantageous to the Government, may constitute sufficient consideration for an amendment providing for progress payments. When estimated financing costs have been included as an element (whether or not identified) in the contract price, it is fair to expect elimination of the applicable portion of that element of the price when progress payments or larger progress payments are provided by amendment. The fair and reasonable consideration for the progress payment amendment should approximate in a value as nearly as practically ascertainable the amount by which the contract price would have been smaller if a progress payment clause, or the amended larger progress payment clause, had been contained in the contract in the first instance. In the absence of definite information on this point, pertinent factors for estimating the fair and reasonable amount of consideration would include (a) the amounts of progress payments expected to be outstanding for estimated periods of time, (b) the cost of equivalent working funds to the contractor, and (c) the estimated profit rate expected to be earned by contract performance. If not accomplished by a contract price reduction, other concessions or agreement by the contractor, advantageous to the Government and incorporated in the amendment, may be fairly evaluated and accepted as being of value reasonably equivalent to a price reduction. This consideration should be such as is fair, equitable and reasonable in the light of the circumstances of each case. See § 163.96. This consideration should be for the progress payment amendment, and there shall be no provision for interest or other specific charge for progress payments, or for a reduction in payments after the progress payment amendment (other than any agreed discount for prompt payment) by reason of the making of progress payments.

§ 163.98 Scope.

This subpart provides uniform policies and procedure for the ascertainment and collection of contract debts, for the charging of interest thereon, for deferral of payments, for compromise and termination of certain claims, and for reporting of contractor bankruptcies. Except as specified herein, it applies to all indebtedness arising in connection with contracts for procurement of property or services, contracts for sale or use of Government property, and from charges for Government services.

§ 163.98–1 Exclusion and limitation.

This subpart does not apply to claims of the Government against military or civilian employees or their dependents, arising in connection with current or past employment by the Government. Its provisions concerning interest and deferral of payments and compromise or termination of certain claims do not apply to indebtedness resulting from statutory renegotiation, nor to claim against common carriers for transportation overcharges or freight or cargo loss or damage.

6. In § 163.99, paragraphs (i) and (j) are revised and paragraphs (k) and (l) are revoked; and §§ 163.101–4, 163.101–5, 163.102, 163.106–2, 163.107, 163.109, and 163.109–1 are revised, as follows:

§ 163.99 Examples.

* * * * *

(i) Delinquency in payment called for by agreement or arrangement for deferral or postponement of payments;

(j) Statutory renegotiation. See § 163.98–1.

(k) [Revoked]

(l) [Revoked]

§ 163.101–4 Records after transfer.

(a) Upon transfer of a case to the contract financing office (§ 163.109), the debt record maintained by a contracting officer shall be closed by appropriate reference to the date of transfer.

(b) When a disbursing officer is primarily responsible for collection (§ 163.100), he should maintain his record of the debt until he receives payment or is advised of collection.

(c) In all cases transferred to a contract financing office (§ 163.109), that office shall establish and maintain an accounts receivable record showing all pertinent information relating to the debt, including an indebtedness and payment record reflecting current status, to be closed upon collection or compromise, or referral of the case to the General Accounting Office or to the Department of Justice.

§ 163.101–5 Deferral request records and copies.

When the contract financing office enters into a deferral agreement (§ 163.109) or a compromise (§ 163.123), it will furnish copies to the appropriate contracting officer and disbursing officer when deemed necessary. When the contract financing office denies a deferral request, or does not reach agreement with a contractor on a deferment, it will give timely notice to the appropriate contracting officer and disbursing officer when deemed necessary.

§ 163.102 Cash collection—non-postponement.

Except as expressly authorized in this subpart (§§ 163.112, 163.113, 163.114, 163.121, and 163.123), there shall be no postponement of payment of indebtedness, or compromise of indebtedness, and amounts due shall be paid in one sum upon demand, in cash or by credit against existing unpaid billings due to the contractor.

§ 163.106–2 Special demand by contract financing office.

If no previous demand has given notice of interest charge, the first demand made by the contract financing office (§ 163.26) will give notice of interest charge to be effective from the initial demand previously made, on amounts not paid before the expiration of 30 days after the date of the first demand.

§ 163.107 Reduction of amount—interest.

When, after demand giving notice of interest charge, the amount demanded is reduced to a lesser amount, or the debt demanded is replaced by a lesser debt, interest shall be charged on the reduced or substituted lesser amount at 6 percent per annum from the date specified by the first demand made for payment of the higher amount. No agreement may be made to the contrary.

§ 163.109 Transfer to contract financing office.

(a) Transfer of the case will be made to the contract financing office (1) upon receipt of a contractor's request for deferral, or (2) whether or not postponement is requested, upon the expiration of 45 days without full collection after the date of demand, as herein provided. Transfer shall be to the contract financing office of the Department within which its Procuring Activity awarded the contract, i.e., the contract financing office of the Procuring Department, except that debts (§ 163.98) originating in DCAS shall be transferred to the contract financing office of DSA (§ 163.26). When a contract financing office receives a case involving a contract awarded by a Procuring Activity of another Department, it shall promptly notify the contract financing office of the Procuring Department.

(b) Deferment requests, with appropriate supporting information will be sent forward as speedily as possible to the contract financing office (§ 163.26) of the Department concerned for appropriate action. In connection with transmittal of a deferment request, or if payment is not made and withholdings have not resulted in full collection within 45 days after the date of demand (except the demands mentioned in § 163.105) the case file, and accountability, will be transferred to the contract financing office (§ 163.26) of the military department which established the debt. The case file submitted shall contain adequate identifying and explanatory information, including relevant memoranda and correspondence, accounting data, amounts and dates of any collections, name and location of disbursing office and of assignee, date of filing of appeal, if any, information on hand concerning financing condition of the contractor, contractor's deferment proposal, if any, and recommendations for action on the deferment proposal. After this transfer, the contract financing office will have full responsibility for collection action, but this transfer shall not operate to relieve a certifying or disbursing officer of liability for overpayments or illegal payments as fixed under applicable law. Such transfer will be accomplished by the office having primary responsibility regarding the debt (§ 163.100).

(c) When a debt has been transferred to the contract financing office by the office having primary responsibility, all subsequent debts of the same contractor, for which that same office has primary responsibility, shall also be transferred immediately by that office to the same contract financing office, unless there is assurance of prompt payment in full.

§ 163.109–1 Small amounts.

The transfers required by § 163.109 will not be made for amounts less than $50.00. However, it is incumbent on contracting officers and disbursing officers to effect collection whenever and by such means as are practicable. (See § 163.101.)

7. Section 163.119 is revised; new paragraph (c) is added to § 163.119–1; §§ 163.120 and 163.121 are revised; and new §§ 163.123, 163.123–1, and 163.124 are added, as follows:

§ 163.119 Exceptions to interest clause requirement.

Contract provision for interest need not be included in (a) small purchases (see Subpart F, Part 3 of this chapter); (b) purchases described in §§ 16.303, 16.304, 16.501, and 16.504 of this chapter, or in Part 5 of this chapter; (c) purchases under indefinite delivery type contracts existing before the effective date of this subpart; (d) amendments of contracts existing before the effective date of this subpart; or (e) contracts with agencies of the U.S. Government, foreign governments or agencies thereof, State or local governments or agencies thereof, or nonprofit contracts with nonprofit educational or research institutions. Further exceptions may be established by the Contract Finance Committee (§ 163.12–3), with the approval of the Assistant Secretary of Defense (Installations and Logistics) or his representative.

§ 163.119–1 Further exceptions.

* * * * *

(c) Transportation contracts with common carriers for common carrier services, e.g., common carrier transportation services procured by transportation requests, transportation warrants, bills of lading, and similar transportation forms (§ 1.102 of this chapter).

§ 163.120 Exemptions from administrative interest charge.

Contractors and contracts mentioned in § 163.119(e), and other contractors in exceptional circumstances, may be exempted from the administrative interest charges required by this subpart when so agreed by the Contract Finance Committee (§ 163.12–3) with the approval of the Assistant Secretary of Defense (Installations and Logistics) or his representative.

§ 163.121 Responsibilities.

(a) The contract financing office (§ 163.26) of each military department, will take appropriate actions to effect collection of debts referred to it, including administration of deferment agreements, to cause debts to be listed on the consolidated list of contractors indebted to the United States, commonly known as the "Hold-up List," to remove names from the "Hold-up List," to determine administrative uncollectibility, and to refer debts to the General Accounting Office or the Department of Justice as appropriate. Within each Department, no arrangement for postponement or deferral of payments may be made without the approval of the contract financing office. Acting in conformity to the standards stated in this subpart those offices may approve or deny deferment proposals transmitted to them or made di-

rectly to them by contractors, or approve such proposals on prescribed conditions.

(b) Responsibility for assuring effective administration in accordance with this subpart shall be in the Assistant Secretary of Defense (Installations and Logistics). Responsibility for effective administration under this subpart in each Department shall be in the Under or Assistant Secretary responsible for the comptroller function. The Contract Finance Committee (§ 163.12–3) shall advise and assist the Assistant Secretary of Defense (Installations and Logistics) in assuring proper application of policies and the development of procedures hereunder, and in the formulation of such further instructions on this subject as may appear desirable. That Committee is responsible for this part and will develop and promulgate herein supplemental instructions on this subject.

(c) Reports will be made by each Department in connection with the subject matter of this subpart at such times and in such form as may be prescribed or approved by the Assistant Secretary of Defense (Comptroller) and the Assistant Secretary of Defense (Installations and Logistics).

§ 163.123 Compromise.

The Federal Claims Collections Act of 1966 (P.L. 89–508, 80 Stat. 308), July 19, 1966, authorizes the compromise of certain claims that do not exceed $20,000. This statute also authorizes termination or suspension of collection action on such claims. Actions under this statute must conform to standards prescribed jointly by the Attorney General of the United States and the Comptroller General of the United States. These controlling standards have been established by joint regulations published in the FEDERAL REGISTER of October 15, 1966, pages 13381–13385, Title 4, Chapter 11, entitled, "Joint Regulations Prescribing Standards for Administrative Collection, Compromise, Termination of Agency Collection Action, and Referral to General Accounting Office, and to Department of Justice for Litigation, of Civil Claims by Government for Money or Property."

§ 163.123–1 Delegation.

Department of Defense Authority under the above statute and joint regulations (§ 163.123) has been delegated to the Departments (§ 163.3). Within each Department, for those debts covered by this subpart (§163.98) authority to act in conformity to the cited statute and joint regulations has been delegated to the contract financing office (§ 163.26).

§ 163.124 Bankruptcy reporting.

For those debts covered by this subpart (§ 163.98), claims in bankruptcy or insolvency, or in proceedings for reorganization or rearrangement will be furnished to the Department of Justice. These claims are (a) those which have been transferred to a contract financing office (§ 163.109), (b) those on their way to a contract financing office at inception of bankruptcy or insolvency proceedings, (c) those pending and not forwarded to a contract financing office at inception of bankruptcy or insolvency proceedings, and (d) those which are the consequence of bankruptcy or insolvency proceedings. Proof of claim, with pertinent supporting data and documentation shall be furnished to the Department of Justice by the contract financing office (§ 163.26) or by such other office or offices as may be designated within a Department. Information will be supplied to the contract financing office by the office of origin of a debt as soon as possible after the beginning of proceedings for bankruptcy, insolvency, reorganization, or rearrangement. Information, reports, and proof of claim under this paragraph are not expected on debts of less than $150.

[Rev. 22, Appendix E, ASPR, Apr. 3, 1967] (Sec. 2202, 70A Stat. 120; 10 U.S.C. 2202. Interpret or apply sec. 301, 702(d), 64 Stat. 800, 816, as amended, secs. 2307, 7364, 70A Stat. 131, 455, as amended, sec. 1, 72 Stat. 972; 50 U.S.C. App. 2091, 2152(d), 10 U.S.C. 2307, 7364, 50 U.S.C. 1431, E.O. 10480, 18 F.R. 4939, 3 CFR, 1953 Supp., E.O. 10789, 23 F.R. 8897, unless otherwise noted)

KENNETH G. WICKHAM,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 67–9706; Filed, Aug. 17, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 729]

PEANUTS

Proposed Proclamation Regarding 1968 National Marketing Quota, National Acreage Allotment, and Apportionment of National Acreage Allotment (Less Reserve for 1968 New Farms) to States

The Secretary of Agriculture is required by section 358(a) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1358(a)), to proclaim, between July 1 and December 1 of each calendar year, the amount of the national marketing quota for peanuts for the crop produced in the next succeeding calendar year. The amount of such quota is the total quantity of peanuts which will make available for marketing a supply of peanuts from the crop with respect to which the quota is proclaimed equal to the average quantity of peanuts harvested for nuts during the 5 years immediately preceding the year in which such quota is proclaimed, adjusted for current trends and prospective demand conditions.

Section 358(a) of the act further provides that the national marketing quota for peanuts shall be converted to a national acreage allotment by dividing such quota by the normal yield per acre of peanuts for the United States determined by the Secretary on the basis of the average yield per acre of peanuts in the 5 years preceding the year in which the quota is proclaimed, with such adjustment as may be found necessary to correct for trends in yields and for abnormal conditions of production affecting yields.

Section 358(a) of the act also requires that the national marketing quota be a quantity of peanuts sufficient to provide a national acreage allotment of not less than 1,610,000 acres.

Section 358(c)(1) of the act (7 U.S.C. 1358(c)(1)) provides that the national acreage allotment for any year, less the acreage to be allotted to new farms under section 358(f) of the act (7 U.S.C. 1358(f)), shall be apportioned among the States on the basis of their shares of the national acreage allotment for the most recent year in which such apportionment was made. Pursuant to this provision of the Act, the national acreage allotment for the 1968 crop of peanuts will be apportioned to States on the basis of their shares of the 1967 national acreage allotment.

Before any action is taken with respect to proclaiming the national marketing quota, establishing the national acreage allotment, apportioning the national acreage allotment (less reserve) among the States, or determining the percentage of the national acreage allotment to be reserved for new farms, consideration will be given to any data, views, and recommendations relating thereto which are submitted in writing to the Director, Policy and Program Appraisal Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

All written submissions must be postmarked not later than 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on August 11, 1967.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67-9721; Filed, Aug. 17, 1967; 8:46 a.m.]

Consumer and Marketing Service

[7 CFR Part 927]

BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Expenses and Fixing of Rate of Assessment for 1967-68 Fiscal Period and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Control Committee, established pursuant to the marketing agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and necessary to be incurred by the Control Committee, during the period July 1, 1967, through June 30, 1968, will amount to $41,635.38.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 927.41 be fixed at one cent ($0.01) per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

(3) That unexpended funds in excess of expenses incurred during the fiscal period ended June 30, 1967, in the amount of $13,024.72, be carried over as a reserve in accordance with § 927.42 of the said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: August 14, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-9725; Filed, Aug. 17, 1967; 8:46 a.m.]

[7 CFR Part 1133]

MILK IN INLAND EMPIRE MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as ameneded (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Inland Empire marketing area is being considered for the period of September, October, and November 1967.

The provisions proposed to be suspended are: In paragraph (c) of § 1133.12 (producer milk definition), the provision: "15 percent in the months of September, October, and November," where such provision appears in both subparagraphs (1) and (2) of such paragraph. The provisions relate to the limit on diverting the milk of producers in each of the months of September through November.

The proposed suspension would permit handlers to divert producer milk from a pool plant to a nonpool plant during the months of September through November 1967 without limit. The order presently provides for diversion not in excess of 15 percent for each of the months during the period September through November.

A cooperative association representing a substantial number of producers supplying the market has requested this suspension pending the issuance of a

final order on amendments considered at a public hearing held at Spokane, Wash., on July 25, 1967. One of the proposals considered at the hearing concerned diversion limits.

Proponent stated that marketing conditions which necessitated suspension of the diversion provisions for the period April through July 1967 (32 F.R. 6341) will continue to exist for the period September through November 1967. Producer deliveries have increased in recent months more than usual for the season. It is expected, therefore, that milk in excess of 15 percent (as required for each of the months of September through November) of that delivered to pool plants will need to be diverted to nonpool plants for manufacture into butter, cheese, nonfat dry milk, etc.

The proposed suspension will permit dairy farmers who have supplied the fluid milk requirements of the market to continue as producers under the order.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Signed at Washington, D.C., on August 14, 1967.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-9763; Filed, Aug. 17, 1967; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 91]

[Docket No. 8340; Notice 67-37]

PRIORITY HANDLING REPORTS

Compliance With ATC Clearance and Instructions

The Federal Aviation Administration (FAA) is considering amending Part 91 of the Federal Aviation Regulations to provide that the report, presently required from a pilot who is given priority by air traffic control in an emergency, be submitted only upon the request of ATC.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments.

Section 91.75(d) currently requires a pilot in command who is given priority by ATC in an emergency to submit a detailed report of the emergency to the nearest FAA Regional Office within 48 hours.

The requirement for submitting this report was inserted into the air traffic rules in 1947 to minimize the practice of a pilot declaring an emergency in order to receive preferential handling by ATC. At this time turbojet aircraft were being introduced into the air traffic control system and pilots of those aircraft often declared emergencies in order to obtain priorities.

Since 1947, various factors have changed. Advancements in turbojet operational capability (especially fuel management), improved pilot familiarization, and improved procedures for handling these aircraft have made priority emergencies virtually nonexistent.

On August 23, 1966, the U.S. Air Force requested an exemption from § 91.75(d) citing as a primary reason the fact that, in many instances, ATC may grant a pilot priority and not inform the pilot. This regulation requires a pilot to file a report whether or not he may be aware that he has received priority handling. Therefore, it appears that the basis for the Air Force request is applicable to other pilots also. Since the need for the regulation has lessened proportionately with the decrease in priority emergencies, it now appears desirable to require priority reports only upon request of the ATC facility involved. This would reflect the diminishing basis for the requirement and avoid the incongruity of automatically requiring a report from a pilot receiving priority handling who may not be aware of the service received.

In consideration of the foregoing, it is proposed to amend paragraph (d) of § 91.75 to read as follows:

§ 91.75 Compliance with ATC clearances and instructions.

* * * * *

(d) Each pilot in command who (though not deviating from a rule of this subpart) is given priority by ATC in an emergency, shall, if requested by ATC, submit a detailed report of that emergency within 48 hours to the chief of that ATC facility.

This amendment is proposed under the authority of sections 307 and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on August 10, 1967.

ARCHIE W. LEAGUE,
Director, Air Traffic Service.

[F.R. Doc. 67-9717; Filed, Aug. 17, 1967; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 70]

SPECIAL NUCLEAR MATERIAL

Withdrawal of Notice of Proposed Rule Making

On March 5, 1963, the Atomic Energy Commission published for public comment in the FEDERAL REGISTER (28 F.R. 2111) a proposed revision of its regulation 10 CFR Part 70 which, among other things, would have added criticality considerations and other licensing criteria to the regulations applicable to licensing of special nuclear material. In consideration of the comments received and further study of the problem, the notice of proposed rule making, published in the FEDERAL REGISTER on March 5, 1963 (28 F.R. 2111), entitled "'Licensing of Special Nuclear Material' to Add Criticality Considerations and Other Licensing Criteria" is hereby withdrawn. The Commission is developing another revision of Part 70 which will, among other things, reflect its consideration of the comments received on the notice which is being withdrawn.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Issued at Germantown, Md., this 7th day of August 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 67-9705; Filed, Aug. 17, 1967; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 89]

[Docket No. 17581; FCC 67-961]

SPECIAL RADIO SERVICE

Eligibility of Medical Associations; Order Extending Time for Filing Comments

In the matter of amendment of § 89.507 of the Commission's rules to make medical associations eligible for authorization in the Special Radio Service.

1. The National Association of Radiotelephone Systems (NARS) has requested the Commission to extend the time for filing comments in the above-captioned matter. Comments are required to be filed on or before August 14, 1967. NARS has asked that the comment date be extended to October 2, 1967, and that reply comments be extended from August 24, 1967, to October 16, 1967. In support of the requested extension NARS states that it is interested in the subject rule making; that it considers private cooperative systems to be "violative of the Communications Act and Regulations * * * and, if tolerated, * * * will drive the regulated carrier out of business * * *"; that its annual national convention will be held September 10–13,

1967; and, that the extension would provide an adequate opportunity for discussion and deliberation of this proceeding and the preparation of appropriate pleadings based upon recommendations of the annual convention.

2. On August 10, 1967, Allied Telephone Companies Association (Allied) also requested extension of the filing date to September 15, 1967. Allied states that its board of directors would meet on August 11, 1967, to determine the Association's position with respect to this proceeding and that it needs the additional time to prepare its comments thereafter.

3. The notice in this proceeding was issued on July 10, 1967. NARS has not shown that the time allotted has not been sufficient for preparation of its comments. It is clear that NARS has an established policy with respect to the issues, and has not shown that it needs policy guidance thereon from the national convention. It is noted that the NARS convention has been scheduled well in advance and the Commission cannot be expected to schedule the flow of its rule making proceeding to accommodate industry association conventions, absent a good showing that new and otherwise unobtainable information would develop in such conventions.

4. Nor has Allied justified its request. The basic policy decision was to be made by its board of directors on August 11, 1967, and Allied has not shown that it needs more than a month thereafter to prepare and file its comments.

5. On the other hand, there is a need to conclude the instant proceeding as soon as possible because, among other reasons, there are pending applications to be disposed and there are a number of systems in operation for which future plans cannot be made until a decision in this matter is reached.

6. Accordingly, the requests of NARS and Allied are denied. However, the filing date will be extended for a period of two weeks to permit them to file their comments.

7. In view of the foregoing: *It is ordered*, That the time for filing comments in the above-captioned proceeding is extended from August 14, 1967, to August 28, 1967, and the time for filing reply comments from August 24, 1967, to September 7, 1967.

Adopted: August 14, 1967.

Released: August 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-9755; Filed, Aug. 17, 1967; 8:48 a.m.]

[1] Commissioner Cox dissenting; Commissioners Wadsworth and Johnson absent.

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 424]

[No. 32464]

CARRIERS BY INLAND AND COASTAL WATERWAYS

Uniform System of Accounts

AUGUST 1, 1967.

Notice is hereby given pursuant to the provisions of section 4(a) of the Administrative Procedure Act that the Commission has under consideration proposed amendments of the Uniform System of Accounts for Carriers by Inland and Coastal Waterways, to be effective as of January 1, 1967, with regard to the accounting treatment of extraordinary and prior period items in the determination of net income.

The proposed regulations would (a) generally require that items affecting net income be recorded in appropriate profit and loss accounts, rather than by direct entry to retained income account, and (b) explain, definite, and provide accounts and categories for ordinary income, extraordinary items, prior period items, and applicable income taxes.

The revised rules herein proposed will have several notable advantages over current regulations which conditionally permit direct entry to retained income. Moreover, in asserting more objective criteria with respect to determination of materiality than presently exist, the proposed changes are intended to minimize the need to interpret existing regulations.

The detailed statement of proposed rule set forth below completely states the proposed revisions to the applicable parts of the Uniform System of Accounts for Carriers by Inland and Coastal Waterways, considered necessary to accomplish the stated objectives.

All carriers affected by the proposed rules and other interested parties who desire to do so should submit written views and comments for consideration, as soon as possible, and not later than September 15, 1967. The Commission will consider all such responses and representations before deciding this matter, after which such order as may be found appropriate will be entered. An original and three copies of any such response should be submitted.

Notice shall be given Carriers by Inland and Coastal Waterways hereby affected and to the general public by depositing this notice in the office of the Secretary of the Commission at Washington, D.C., and by filing this notice with the Director, Office of the Federal Register.

(Sec. 313, 54 Stat. 944, as amended; 49 U.S.C. 913)

By the Commission, Division 2.

[SEAL] H. NEIL GARSON,
Secretary.

DETAILED STATEMENT OF PROPOSED RULE

I. INSTRUCTIONS DELETED AND AMENDED

Item No. 1. Instruction "2 Definitions", is amended by adding the following after the last sentence of paragraph (k): "See instructions 3 and 4."

Item No. 2. Instruction "4 Delayed items and adjustments", is revised as follows:

4 Extraordinary and prior period items.

(a) All items of profit and loss recognized during the year are includible in ordinary income except nonrecurring items which in the aggregate for the same class are both material in relation to operating revenues and ordinary income for the year and are clearly not identified with or do not result from the usual business operations of the year. Important items of the kind which occur from time to time and which, when material in amount, are to be excluded from ordinary income are those resulting from unusual sales of property and investment securities other than temporary cash investments; from wars and similar calamities and catastrophes, which are not a recurrent hazard of the business and which are not usually covered by insurance; from change of accounting principles; and from prior period items (other than ordinary adjustments of a recurring nature). Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. Items so excludible from ordinary income are to be entered directly in the income accounts provided for extraordinary and prior period items upon approval of the Commission.

Adjustments constituting items of customary business activities or corrections or refinements resulting from the natural use of estimates inherent in the accounting process, including those arising from disposal of a unit of property sold or retired in the regular course of business operations, shall not be considered extraordinary or prior period items regardless of size.

(b) In determining materiality, items of a similar nature should be considered in the aggregate; dissimilar items should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item, shall exceed 1 percent of total water-line operating revenues and ten percent of ordinary income for the year.

(c) Ordinary delayed items and adjustments arising during the current year which are applicable to or related to transactions of prior years shall be included in the same accounts which would have been charged or credited had the item been taken up or adjusted in the period to which it pertained. Ordinary delayed items exclude items of the character described in paragraph (a).

Item No. 3. Instruction "11 Depreciation accounting" is amended by revising the last sentence of paragraph (e) and the text of paragraphs (f) and (g) as follows:

(e) * * * Any differences between the service value of the particular unit or item retired and the amount charged to account 150 shall be included in the appropriate income account.

(f) *Insurance recoverable.* When amounts are recoverable from insurance companies or chargeable to the insurance reserve in connection with retirement of depreciable property, the difference between the insurance recoverable and the net book value of the property (book cost less recorded depreciation) shall be included in the appropriate income account.

(g) *Inadequate or excessive balance.* A carrier may request, or the Commission may direct, that special accounting be applied in situations causing undue inflation or deflation of depreciation reserves. A carrier's request for special accounting shall contain full particulars concerning the situation, including the basis for its proposal. Alternative accounting techniques shall be applied to the extent approved or directed by the Commission.

Item No. 4. Instruction "23 Book cost of securities owned" is amended by revising the last sentence of paragraph (b) as follows:

(b) * * * The amount of such adjustment shall be charged to account 527, "Miscellaneous income charges", or account 570, "Extraordinary items", as appropriate.

Item No. 5. Instruction "27 Discount, premium, and expense on long-term debt" is amended by revising paragraph (d) as follows:

(d) Except as otherwise provided in this instruction, the balance in each account shall be carried until the reacquirement of the securities to which it relates at which time the proportion (based on the relation of the amount reacquired to the total outstanding before reacquirement) of the balance in the account for the particular class of long-term debt reacquired shall be closed to account 507, "Miscellaneous income", account 527, "Miscellaneous income charges", or account 570, "Extraordinary items", as appropriate.

Item No. 6. Instruction "44 Cost of construction" is amended by revising the second sentence of paragraph (g) as follows:

(g) * * * Such costs shall be included in the cost of the work in connection with which the injury or damage occurs, except that unusual losses that result in the destruction of units that have to be entirely replaced prior to completion of the projects shall be charged to account 525, "Losses from sale or disposition of property", or account 570, "Extraordinary items", as appropriate; * * *

Item No. 7. Instruction "47 Retirements and replacements" is amended by revising the last sentence of paragraph (b) (2), the last two sentences of paragraph (c) and all of paragraph (d) as follows:

(b) * * *

(2) * * * If retired property is held by the carrier for other than water-line service, its appraised value shall be included in account 160, "Noncarrier physical property", provided the appraised value shall not exceed the net book value (book cost less recorded depreciation) of such retired property.

(c) *Land retired.* * * * If the land is sold, the necessary adjustment between the book cost and the sale price shall be included in account 508, "Profits from sale or disposition of property", account 525, "Losses from sale or disposition of property", or account 570, "Extraordinary items", as appropriate. If the land is retained, the lesser of its appraised value or book cost shall be charged to account 160, "Noncarrier physical property", and the necessary adjustment included in account 525, or account 570, as appropriate.

(d) *Sale of property.* In case carrier or noncarrier depreciable property is sold or otherwise disposed of and the net proceeds realized, including insurance and salvage, are in excess of the net book value (book cost less recorded depreciation), such excess shall be credited to account 508, "Profits from sale or disposition of property", or account 570, "Extraordinary items", as appropriate.

Item No. 8. The text of instruction "52 Purpose of retained income account" is revised as follows:

52 Purpose of retained income account.

The retained income accounts are designed to show the changes in retained income during each calendar year as affected by the balance of the income account as reported for the period; by any disposition of retained income made solely at the option of the carrier; and, when authorized by the Commission, other items.

Item No. 9. Instruction "61 Purpose of income accounts" as amended by revising paragraphs (a) and (b) as follows:

The income accounts are designed to show as nearly as practicable for each calendar year the amount of money that a carrier becomes entitled to receive for transportation services rendered, the income accrued upon investments in securities and noncarrier property, the accrued costs payable for the transportation services rendered, the amounts accrued for taxes, for use of moneys, for use of properties of others, and for extraordinary and prior period items. See instruction 4.

II. TEXTS OF BALANCE SHEET ACCOUNTS DELETED AND AMENDED

Item No. 1; Account 115 Material and supplies. The text of this account is amended by revising paragraph (d) as follows:

(d) Reusable material recovered in connection with maintenance work or the demolishing of fixed improvements or equipment shall be charged to this account at amounts not to exceed cost, estimated if not known. Scrap and nonusable materials shall be carried at estimated salvage value; when sold or disposed of, the difference between proceeds and recorded values shall be adjusted (as far as practicable) through the accounts which were credited when the material was recovered and taken into this account.

Item No. 2; Account 147 Land. The text of this account is amended by revising paragraph (b) as follows:

(b) Proceeds from the sale of timber, mineral deposits or improvements purchased with land, less the cost of removal, shall be credited to this account up to the amount of the purchase price allocated as their cost. Any excess shall be credited to account 507, "Miscellaneous income", or, when qualifying as extraordinary pursuant to instruction 4, shall be included in account 570, "Extraordinary items".

Item No. 3; Account 150 Depreciation reserve; transportation property. The text of this account is amended by revising the second sentence of paragraph (a) as follows:

(a) * * * It shall also include other entries which may be authorized by the Commission; see instruction 11. * * *

Item No. 4; Account 161 Depreciation reserve; noncarrier physical property. The text of this account is amended by revising the last sentence of paragraph (b) as follows:

(b) * * * In case the net proceeds realized, including insurance and salvage, are in excess of the net book value (book cost less recorded depreciation), such excess shall be credited to account 508, "Profits from sale or disposition of property", or account 570, "Extraordinary items", as appropriate.

Item No. 5; Account 174 Debt discount and expense. The text of this account is amended by revising paragraph (b) as follows:

(b) When an issue of debt securities, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating thereto, such amount, together with any premium paid in retiring the debt, shall be charged to account 527, "Miscellaneous income charges", or account 570, "Extraordinary items", as appropriate.

Item No. 6; Account 175 Other deferred debits. The text of paragraph (a) of this account is amended by revising the third tabulated item as follows:

Balance in account 601, "Material and stores expenses";

Item No. 7; Account 190 Reacquired and nominally issued long-term debt. The text of this account is amended by revising paragraph (b) as follows:

(b) The difference between the par value of long-term debt and the amount paid therefor, including commissions and expenses in connection with its reacquisition and the portion of unamortized premium, discount, and expense relating to the long-term debt reacquired shall be included in account 507, "Miscellaneous income", account 527, "Miscellaneous income charges", or account 570, "Extraordinary items", as appropriate.

Item No. 8; Account 231 Premium on long-term debt. The text of this account is amended by revising paragraph (b) as follows:

(b) When an issue of debt securities, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized premium relating thereto, such amount shall be credited to account 507, "Miscellaneous income", or account 570, "Extraordinary items", as appropriate.

Item No. 9; Account 232 Other deferred credits. The text of paragraph (a) of this account is revised by deleting the second tabulated item.

Item No. 10; Account 280 Retained income—unappropriated. The text of this account is amended by revising paragraph (b) as follows:

(b) The balance of all retained income accounts (281 to 287, inclusive) shall be closed into this account at the end of each calendar year.

Item No. 11. The system of accounts, following the caption "Retained Income Accounts", is revised by deleting the following account numbers, titles and texts:

282 Profits from unusual sales of property.
284 Losses from unusual sales of property.
288 Federal income taxes assigned to retained income.

Item No. 12; Account 283 Miscellaneous credits. The text of this account is revised as follows:

283 Miscellaneous credits.

This account shall include other credit adjustments, net of assigned income taxes, not provided for elsewhere in this system, but only after such inclusion has been authorized by the Commission.

Item No. 13; Account 285 Miscellaneous debits. The text of this account is revised as follows:

285 Miscellaneous debits.

(a) This account shall include losses from resale of reacquired capital stock, and charges which reduce or write off discount on capital stock issued by the company, but only to the extent that such charges exceed credit balances in paid-in surplus for shares reacquired.

(b) This account shall also include other debit adjustments, net of assigned income taxes, not provided for elsewhere in this system, but only after such inclusion has been authorized by the Commission.

III. TEXTS OF INCOME ACCOUNTS REVISED AND AMENDED

Item No. 1; Account 504 Interest income. The text of this account is amended by revising the last sentence of paragraph (b) as follows:

(b) * * * Any discount or premium remaining unextinguished upon the maturity and satisfaction of such securities shall be cleared to account 507, "Miscellaneous income", or to account 527, "Miscellaneous income charges", as appropriate.

Item No. 2; Account 507 Miscellaneous income. The list of items following the text of this account is revised as follows:

ITEMS

1. Profits from sale of securities, including temporary cash investments.
2. Proceeds from the sale of timber or improvements purchased with the land, or mineral deposits, in excess of the cost thereof including cost of recovery.
3. Credits resulting from adjustments required to bring to par long-term obligations issued or assumed by the carrier and reacquired at a cost less than par value.
4. Unamortized premium on long-term debt reacquired before maturity.
5. Profits derived from conversion of money of a foreign country into U.S. money.
6. Fees collected in connection with the exchange of coupon bonds for registered bonds.
7. Cancellation of liability accounts (including unclaimed wages) or erroneous collections (except unrefundable revenue overcharges) written off because of carrier's inability to locate the creditor or payee.
8. Recovery of fines previously charged to account 527, "Miscellaneous income charges".
9. Remittances received from anonymous sources.

When the profits, proceeds or adjustments resulting from any of the first four items are of amounts sufficiently large to constitute extraordinary items, pursuant to instruction 4, such profits, proceeds or adjustments shall be credited to account 570, "Extraordinary items".

Item No. 3; Account 508 Profits from sale or disposition of property. The text of this account is amended by deleting the last sentence and adding the following new paragraph:

When the profit from the sale of carrier and noncarrier property is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 4, such profit shall be credited to account 570, "Extraordinary items".

Item No. 4; Account 525 Losses from sale or disposition of property. The text of this account is amended by deleting the last sentence and adding the following new paragraph:

When the loss from the sale of carrier and noncarrier property is of an amount sufficiently large to constitute an extraordinary item, pursuant to instruction 4, such loss shall be charged to account 570, "Extraordinary items".

Item No. 5; Account 527 Miscellaneous income charges. The list of items following the text of this account is revised as follows:

ITEMS OF EXPENSE

1. Losses resulting from revaluation or sale of securities of others held as investments.
2. Debits resulting from adjustments required to bring to par long-term debt obligations issued or assumed by the carrier and reacquired at a cost exceeding par value.
3. Unextinguished discounts and expenses on funded debt reacquired before maturity.
4. Loss on funds due to bank failures.
5. Book cost (in excess of reserve provisions) of improvements on leased property at time of reversion to lessor.
6. Payments of liabilities previously written off.
7. Penalties and fines for violations of the Interstate Commerce Act, and other Federal or state laws, when not specifically provided for elsewhere.
8. Calls for bids in accordance with provisions of mortgages.
9. Cost of advertising bonds drawn for redemption.
10. Losses due to conversion of money of a foreign country into U.S. money.
11. Premiums on bonds to assure performance of agreements when chargeable to income accounts.
12. Taxes on interest on carrier's funded debt paid at the source under tax-free covenants.
13. Trusts, current expenses of maintaining and administering.
14. Trustee's commissions and fees for paying out bond interest and expense including registrars' fees connected with such payments.

When the losses or adjustments resulting from any of the first four items are of amounts sufficiently large to constitute extraordinary items, pursuant to instruction 4, such losses or adjustments shall be charged to account 570, "Extraordinary items".

Item No. 6; Account 532 Income taxes. The title, text and note following the text of this account are revised as follows:

532 Income taxes on ordinary income.

(a) This account shall include accruals for Federal and state income taxes, when not in lieu of a property tax, applicable to ordinary income. See the texts of account 590, "Income taxes on extraordinary and prior period items", account 283, "Miscellaneous credits", and account 285, "Miscellaneous debits", for recording other income tax consequences.

Details pertaining to the tax consequences of other unusual and significant items, and also cases where tax consequences are disproportionate to related amounts included in income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

(b) Federal income taxes which are refundable or reduced as the result of a carry-back or carry-forward of operating loss shall be credited to this account, if a carry-back, in the year in which the loss occurs, or if a carry-forward, in the year in which such loss is applied to reduce taxes. However, when the amount constitutes an extraordinary item pursuant to instruction 4, it shall be included in account 580, "Prior period items".

Item No. 7. The system of accounts, following the text of account 532, "Income taxes on ordinary income", is amended by adding the following caption, account numbers, titles and texts:

EXTRAORDINARY AND PRIOR PERIOD ITEMS

570 Extraordinary items (net).

(a) This account shall include extraordinary items accounted for during the current accounting year in accordance with the text of instruction 4, upon approval of the Commission. Among the items which shall be included in this account are:

Net gain or loss on sale of (a) property and equipment, or (b) timber, mineral deposits or improvements purchased with land.
Net gain or loss on sale of securities acquired for investment purposes, and charges to write down the ledger value of such securities because of impairment of value.
Changes in application of accounting principles.

(b) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

580 Prior period items (net).

(a) This account shall include unusual delayed items accounted for during the current accounting year in accordance with the text of instruction 4, upon approval of the Commission. Among the items which shall be included in this account are:

Unusual adjustments, refunds, or assessments of Federal income taxes of prior years.
Similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year.

(b) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items".

(c) This account shall be maintained in a manner sufficient to identify the nature and gross amount of each debit and credit.

590 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as "unusual and extraordinary", and are recorded in accounts 570, "Extraordinary items", and 580, "Prior period items".

IV. INCOME STATEMENT AMENDED

Item No. 1; Form of income statement. This caption is designated 599 Form of Income Statement.

Item No. 2. The following centered caption is added after the opening paragraph, above "I. Water-line operating income":

ORDINARY ITEMS

Item No. 3. Under "III. Miscellaneous deductions from income:", after "Total income deductions", the line item "Net income before fixed charges [1]" is revised as follows:

Ordinary income before fixed charges [1]------

Item No. 4. Under "IV. Fixed charges:", after "Total fixed charges", the line item "Net income before provision for income taxes [1]" is revised as follows:

Ordinary income before provision for income taxes [1] ----------

Item No. 5. After "V. Provision for income taxes:" all line items are deleted and the following are added:

532. Income taxes on ordinary income------
Ordinary income [1]---------- ------

EXTRAORDINARY AND PRIOR PERIOD ITEMS [1]

570. Extraordinary item (net)----- ------
580. Prior period items (net)------ ------
590. Income taxes on extraordinary and prior period items---------- ------
Total extraordinary and prior period items---------- ------
Net income [1]---------- ------

V. MISCELLANEOUS AMENDMENTS

Item No. 1. The list of instructions, accounts and financial statements is amended to the following extent:

(a) The title of instruction "4 Delayed items and adjustments" is changed to:

4 Extraordinary and prior period items.

(b) The number "299" is prefixed to "Form of balance sheet statement."

(c) The following account numbers and titles are deleted:

282 Profits from unusual sales of property.
284 Losses from unusual sales of property.
288 Federal income taxes assigned to retained income.

(d) The caption "Ordinary Items" is added directly below "Income Accounts."

(e) The number "399" is prefixed to Condensed Revenue Accounts for Small Carriers.

(f) The number "499" is prefixed to Condensed Expense Accounts for Small Carriers.

(g) The title of "532 Income taxes" is changed to:

532 Income taxes on ordinary income.

(h) The following caption and line items are added after "532 Income taxes on ordinary income":

EXTRAORDINARY AND PRIOR PERIOD ITEMS

570 Extraordinary items (net).
580 Prior period items (net).
590 Income taxes on extraordinary and prior period items.

(i) The number "599" is prefixed to "Form of Income Statement."

Item No. 2. In the system of accounts, following the text of account 280, "Retained income—unappropriated", and below "Balance Sheet Statement", the following account number and title are added:

299 Form of balance sheet statement.

Item No. 3. After the note following the text of account 287, "Dividend appropriations of retained income", below caption "Income Accounts", the following caption is added:

ORDINARY ITEMS

Item No. 4. In the system of accounts, following the text of account 355, "Interdepartmental credits", and below the caption "Small carriers", the following account number and title are added:

399 Condensed revenue accounts for small carriers.

Item No. 5. In the system of accounts, following the text of account 495, "Interdepartmental debits", and below the caption "Small Carriers", the following account number and title are added:

499 Condensed expense accounts for small carriers.

[1] If a loss or a debit show the amount in parenthesis.

[F.R. Doc. 67-9791; Filed, Aug. 17, 1967; 8:50 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Bureau Order No. 551, Amdt. 111]

CENTRAL OFFICE PERSONNEL AND AREA DIRECTORS

Delegation of Authority

AUGUST 10, 1967.

Order 551 (an order by which the Commissioner of Indian Affairs delegates authority to Bureau officials), as amended, is further amended as hereinafter indicated:

1. In section 2, paragraph (a) is revised to include the Director of Administration and the Director of Engineering among those officials authorized to exercise, within the scope of their functional responsibilities, any and all authority conferred upon the Commissioner of Indian Affairs by the Secretary of the Interior. As so revised, section 2 reads as follows:

SEC. 2. *Authority of Central Office personnel.* (a) The Deputy Commissioner may exercise any and all authority conferred upon the Commissioner of Indian Affairs by the Secretary of the Interior. The Assistant Commissioners, the Director of Administration, the Director of Engineering, and those persons designated to act in their place during their absence may exercise, within the scope of their functional responsibilities, any and all authority conferred upon the Commissioner of Indian Affairs by the Secretary of the Interior.

* * * * *

2. In section 3, paragraph (b) is revised to delete the language therein concerning the execution of contracts, as all authority with respect to the function referred to by that language is contained in Order 586. As so revised, section 3 reads as follows:

SEC. 3. *Authority of Area Directors.*

* * * * *

(b) The Assistant Area Director and the Area Administrative Officer under the general direction and supervision of the Area Director may severally exercise all the power and authority of the Area Director.

* * * * *

ROBERT L. BENNETT,
Commissioner.

[F.R. Doc. 67-9709; Filed, Aug. 17, 1967; 8:45 a.m.]

Bureau of Land Management

[N-1519]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 10, 1967.

The Atomic Energy Commission has filed the above application for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including permits or leases under the Taylor Grazing Act and the mining and mineral leasing laws.

The applicant desires the land for the location of a seismic instrumentation station in connection with underground nuclear detonations.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 3008, Federal Building, 300 Booth Street, Reno, Nev.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 30 N., R. 42 E.,

A parcel of land in unsurveyed sec. 35 more particularly described as follows:

Beginning at the corner common to secs. 26, 27, 34, 35;

Thence S. 89°56'52" E., 2,152.76 feet, to a point on the south section line of sec. 26;

Thence S. 0°57'57" W., approximately 1,655 feet, along the center line of Sierra Pacific Power Co.'s right-of-way to power pole No. 48068;

Thence S. 0°57'57" W., 56.4 feet, to a point on the center line of said right-of-way;

Thence S. 89°3'3" E., 20 feet, to corner No. 1, the true point of beginning;

Thence N. 0°57'57" E., 200 feet, to corner No. 2;

Thence S. 89°3'3" E., 200 feet, to corner No. 3;

Thence S. 0°57'57" W., 200 feet to corner No. 4;

Thence N. 89°3'3" W., 200 feet, to corner No. 1, the true point of beginning.

The area described contains 0.91 acres.

ROLLA E. CHANDLER,
Land Office Manager.

[F.R. Doc. 67-9710; Filed, Aug. 17, 1967; 8:45 a.m.]

Fish and Wildlife Service

[Docket No. C-272]

RALPH WALTER HAZARD

Notice of Loan Application

AUGUST 14, 1967.

Ralph Walter Hazard, 212 Mohawk Road, Santa Barbara, Calif. 93105, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 45.1-foot, registered length wood vessel to engage in the fishery for sole, hake, rockfishes, lingcod, California halibut, shrimp, pompano, perch, and sablefish.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

J. L. MCHUGH,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 67-9708; Filed, Aug. 17, 1967; 8:45 a.m.]

Office of the Secretary

AUBURN RANCHERIA IN CALIFORNIA

Notice of Termination of Federal Supervision Over Property and Individual Members Thereof

Notice is hereby given that the Indians named below and the dependent members of their immediate families named below who are not members of any other tribe or band of Indians are no longer entitled to any of the services performed by the United States for Indians because of their status as Indians; that all statutes of the United States which affect Indians because of their status as Indians shall be inapplicable to them, and the laws of the several States shall apply to them in the same manner as they apply to other citizens within their jurisdiction. Title to the land on the Auburn Rancheria has passed from the U.S. Government under distribution plan dated August 28, 1959, for the above-named rancheria.

AUBURN RANCHERIA

All those certain lots, pieces or parcels of land, situate, lying and being in the County of Placer, State of California, and bounded and particularly described as follows, to wit:

The E½NW¼ of the SE¼ of sec. 21, T. 12 N., R. 8 E., M.D.B. & M.; and

The W½NW¼SE¼ of sec. 21, T. 12 N., R. 8 E., M.D.M.

Name	Birthdate	Address
Cleve Rey	2-28-1897	Route 3, Auburn, Calif.
Victor Williams	3-14-1914	Route 3, Box 3030, Auburn, Calif.
Agnes V. Williams	2-26-1916	Do.
Victor Williams, Jr.	8-12-1940	Do.
Virginia Williams	7-19-1942	Do.
Blanche Williams	3- 9-1946	Do.
John Williams	3-26-1948	Do.
Janis Williams	5- 8-1956	Do.
Viola Murray	4-21-1891	Route 3, Auburn, Calif.
Jack T. Starkey	12-28-1902	Do.
Dearstine E. Starkey.	6-10-1907	Do.
Harold S. Starkey	2-25-1945	Do.
Henry M. Starkey	2- 4-1943	Do.
Cecil R. Rey	8-26-1914	Do.
Violet A. Rey	9-22-1912	Do.
Leroy M. Rey	10-18-1940	Do.
Richard R. Rey	5-10-1942	Do.
Carolyn A. Rey	3-28-1944	Do.
Donald S. Rey	9- 8-1946	Do.
Dwight A. Rey	9- 7-1953	Do.
Eunice Jordan	5-24-1918	Post Office Box 46, Colfax, Calif.
Tom C. Cooper	5-19-1940	Route 3, Box 3029, Auburn, Calif.
Fred J. Cooper	7-28-1941	Post Office Box 46, Colfax, Calif.
Cleveland R. Adams.	2-19-1905	Box 3027, Route 3, Auburn, Calif.
Jon Lindsey	7-18-1957	Do.
Dolly S. Suehead	1- 5-1928	Route 3, Auburn, Calif.
Jerry G. Suehead	6- 9-1949	Do.
Billy W. Suehead	5-15-1952	Do.
Owen P. Suehead	1- 5-1954	Do.
Barbara C. Suehead	5-10-1955	Do.
John O. Suehead	9-29-1957	Do.
Carl Moman	5- 1-1915	Do.
Doyetta Sue Moman.	2-25-1948	Do.
Comas D. Moman	2-29-1952	Do.
Ronald D. Moman	5-14-1953	Do.
Carl E. Moman	2- 8-1956	Do.
Ray A. Smith	2- 8-1890	Do.
Carolyn Camp	1-18-1926	General Delivery, Auburn, Calif.
Preston Camp	4-25-1945	Do.
Jessica Camp	4-25-1949	Do.
Joyce Camp	6- 9-1950	Do.
Thomas Camp	6- 9-1950	Do.
Christine Camp	11-13-1951	Do.
James Camp	1- 2-1954	Do.
Michael Camp	12-23-1954	Do.
Myrle Starkey	10-16-1933	Route 3, Auburn, Calif.
Ruth May Starkey	12-26-1941	Do.
Wilfred H. Starkey	12-29-1937	Do.
Amber Starkey	10- 1-1957	Do.
Elda Starkey	2- 4-1959	Do.
Guy Wallace	5-25-1905	Post Office Box 201, Newcastle, Calif.
B. J. Frost	8-13-1884	Route 3, Auburn, Calif.
Mary Frost	11-30-1896	Do.
John Hill	6-26-1923	Post Office Box 3, Fort Duchesne, Utah.
Marcella Phyllis Hill.	6-25-1924	Do.
Frank Lewis Hill	4-15-1943	Do.
John W. Hill III	10-29-1946	Do.
Robert J. Hill	8-31-1949	Do.
Judith Lydia Hill	4- 9-1952	Do.
Aileen W. Whitehouse.	2- 7-1932	1166½ Park Avenue, Alameda, Calif.
Pamela Whitehouse	10- 3-1955	Do.
Robert F. Whitehouse, Jr.	11- 7-1956	Sonoma State Hospital, Eldridge, Calif.
Gene R. Whitehouse.	7-31-1958	1166½ Park Avenue, Alameda, Calif.
Earl L. Taylor	12-12-1907	Route 3, Box 3035, Auburn, Calif.
Audrey Taylor	10-26-1912	Do.
Alvin Wallace	1- 2-1923	423 Finley Street, Auburn, Calif.
Nina M. Wallace	2-24-1924	Do.
April P. Wallace	12-21-1947	Do.
Alan Wallace	6- 8-1949	Do.
Albert B. Wallace	8- 1-1958	Do.
James N. Rey, Sr.	3- 1-1923	Route 3, Box 3105, Auburn, Calif.
Loraine I. Rey	8-24-1923	Do.
Susana D. Rey	6- 3-1948	Do.
James N. Rey	4-16-1949	Do.
Robert L. Rey	4-21-1956	Do.
Douglas R. Rey	11- 1-1957	Do.
Lawrence Leggett	2-17-1917	Route 3, Box 3029-A, Auburn, Calif.
Blanche Leggett	11-20-1918	Do.
Clifford Leggett	10-18-1946	Do.
Doris Leggett	1-27-1948	Do.
Ernest M. Leggett	2-18-1950	Do.
Lawrence G. Leggett, Jr.	12-22-1952	Do.
Sylvia M. Leggett	8-16-1954	Do.

This notice is issued pursuant to the act of August 18, 1958 (72 Stat. 619), amended August 11, 1964 (78 Stat. 390), including the provisions in the 1964 act that this notice affects only Indians who received any part of the assets of the rancheria and the dependent members of their immediate families who are not members of any other tribe or band of Indians; and that all restrictions and tax exemptions applicable to trust or restricted lands or interests therein owned by the Indians who are affected by this notice are terminated.

This notice becomes effective as of the date of publication in the FEDERAL REGISTER.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

AUGUST 11, 1967.

[F.R. Doc. 67-9650; Filed, Aug. 17, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18387; Order No. E-25524]

ANTILLES AIR BOATS, INC.

Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of August 1967.

Application of Antilles Air Boats, Inc., for an exemption from the maximum takeoff weight limitation of Part 298 of the Economic Regulations.

On June 30, 1967, Antilles Air Boats, Inc. (Antilles), filed a petition in Docket 18387 for reconsideration of Order E-25287, adopted June 13, 1967, which denied Antilles' application requesting exemption authority to operate a 47-passenger VS-44A Sikorsky Seaplane between the harbors of Charlotte Amalie, St. Thomas, and Christiansted, St. Croix, U.S. Virgin Islands, and between the harbors of Charlotte Amalie, St. Thomas, and Old San Juan, Puerto Rico. Antilles requests reconsideration only insofar as that order denies Antilles an exemption to the extent necessary to permit it to operate a VS-44A seaplane between the harbors of Charlotte Amalie, St. Thomas, and Christiansted, St. Croix.

In support of its petition for reconsideration, Antilles alleges in pertinent part that airboats serve the public convenience and necessity between St. Thomas and St. Croix in a way that is impossible for land-based, airport-bound aircraft. A passenger's transit time between Charlotte Amalie and Christiansted is 25 minutes by airboat, compared with 2 hours by land plane including ground transportation. The carrier also states that such commuter scheduling and commuter convenience between the downtown harbors of the two principal cities, with their community of interest in government and commerce, is a "needed service" which the certificated carriers, Pan American World Airways, Inc. (PAA), and Caribbean Atlantic Airways, Inc. (Caribair), do not, and are unwilling or unable to provide. Antilles points out that neither PAA nor Caribair provides turnaround service, so that there is no reliability regarding the number of seats which will be available on each local flight and reliability of departure times is diminished by mechanical failures, weather conditions, and airport congestion in other places. In addition, Antilles alleges that the flight times of PAA and Caribair are not appropriate for commuting between the two islands. Finally, Antilles notes that the use of the 47-passenger seaplane to relieve congestion in commuter hours is absolutely necessary for it to meet the service demands which the public has placed on it; otherwise, the multiple-aircraft operations which it would have to undertake, with flights a few minutes apart, would put ramp facilities beyond saturation, causing delays and degradation of service.

The government of the U.S. Virgin Islands filed an answer supporting Antilles' petition. Caribair filed an answer opposing Antilles' petition on the grounds that the petition alleges no new facts or circumstances that were not previously considered by the Board and that Antilles has not presented an estimate of the feasibility of its proposed service.

Upon consideration of the pleadings and all relevant facts, we have decided,

on reconsideration, to grant Antilles exemption authority to the extent necessary to permit it to operate one 47-passenger VS-44A seaplane between the harbors of Charlotte Amalie, St. Thomas, and Christiansted, St. Croix. Antilles' harbor-to-harbor proposal is, in our judgment, a highly specialized and distinctive service which will provide significant benefits to the traveling public in the St. Thomas-St. Croix market. The nonstop distance between St. Thomas and St. Croix is 46 miles with the airport at St. Thomas being 2 miles from the main city of Charlotte Amalie while the airport at St. Croix is on the opposite side of the island, 9 miles from the city of Christiansted. Antilles will use the downtown harbors of the two cities and thus will provide a convenience not available from the airport to airport operations. Antilles presently operates 19 round-trip turnaround flights harbor-to-harbor daily in this market and is the principal carrier. The limited authority requested herein will merely permit Antilles to improve its service in a market in which it is already the dominant carrier. Finally, we note that neither PAA nor Caribair, the certificated carriers in this market, provide turnaround service such as Antilles presently provides and would improve with the authority requested herein. In sum, we think the unique convenience of turnaround scheduling of harbor-to-harbor service in this market is of such benefit to the traveling public that the grant of this limited exemption to Antilles to improve its present service is warranted.[1]

In reaching its conclusion, the Board has taken into account the limited nature of the request and the relatively small size of the applicant's operations as considerations which warrant use of its exemption power. To require the applicant to engage in a certification proceeding in order to conduct the service authorized herein would subject it to a financial burden wholly disproportionate to its operations, and would be an undue burden on the carrier and not in the public interest.

Upon consideration of the foregoing, the Board finds that the enforcement of section 401 of the Act and Part 298 of the Board's Economic Regulations, insofar as they would otherwise prevent Antilles from engaging in the air transportation hereinafter permitted, would be an undue burden on Antilles by reason of the limited extent of, and unusual circumstances affecting, its operations, and is not in the public interest.

Accordingly, it is ordered:

1. That Antilles Air Boats, Inc., be and it hereby is temporarily exempted from provisions of section 401 of the Federal Aviation Act of 1958, as amended, and Part 298 of the Board's Economic Regulations to the extent necessary to permit Antilles to operate a 47-passenger VS-44A seaplane between the harbors of Charlotte Amalie, St. Thomas and Christiansted, St. Croix: *Provided:* That in the conduct of the service authorized herein Antilles shall be deemed an air taxi operator within the meaning of Part 298 of the Board's Economic Regulations, and shall comply with and be subject to the provisions of said part;

2. That within 10 days of the effective date of the exemption granted herein, Antilles shall comply with the insurance requirements of §§ 208.11–208.13 of the Economic Regulations with respect to any air transportation performed pursuant to this order; and certificates of insurance reflecting compliance with this requirement throughout the effectiveness of this exemption authority shall be filed in this docket by Antilles; and

3. That this order may be amended or revoked at any time in the discretion of the Board without hearing.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67-9742; Filed, Aug. 17, 1967; 8:47 a.m.]

[1] Our limited award to Antilles will not, however, have any impact on or in any way prejudice our decision in the Puerto Rico-Virgin Islands Service Case, Docket 14642. Unlike the Virgin Islands Case proposals, Antilles operates a totally different harbor-to-harbor service, and, in addition, the proposals in the certificate proceeding do not involve turnaround service.

[Docket No. 17286]

BRITISH EAGLE INTERNATIONAL AIRLINES, LTD.

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be held on September 6, 1967, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., August 15, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-9743; Filed, Aug. 17, 1967; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17637, 17638; FCC 67-917]

K.C.O.D. BROADCASTING CORP. AND BAPTIST BIBLE COLLEGE

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of K.C.O.D. Broadcasting Corp., Springfield, Mo., requests: 97.3 mc, No. 247; 49.4 kw; 190 feet, Docket No. 17637, File No. BPH-5643; Baptist Bible College, Springfield, Mo., requests: 97.3 mc, No. 247; 100 kw (horizontal), 100 kw (vertical); 481.85 feet, Docket No. 17638, File No. BPH-5686; for construction permits.

1. The Commission has under consideration the above captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. From the information in its application, K.C.O.D. Broadcasting Corp. requires a total of $53,161 to construct and operate for 1 year without revenue. To meet this requirement it shows $27,800 in pledges. Adequate substantiation, however, has not been provided for the additional amount anticipated from first-year revenues. Accordingly, an issue will be specified to determine the availability of the additional $25,361 required.

3. Information submitted in the K.C.O.D. Broadcasting Corp. application does not provide a basis for determining what steps, if any, have been taken to ascertain the programing needs and interests of Springfield and the proposed service area. A mere statement of longtime residence in the area is inadequate for this purpose, and a "Suburban" issue against K.C.O.D. Broadcasting Corp. will be specified.

4. Although both applicants propose specialized programing, comparison of the programing proposals is not appropriate since both propose predominantly religious programing. Since both applicants are silent on the matter, issues will be specified to determine whether the proposed facilities would be available for the presentation of views of other religious groups—see George E. Borst et al., FCC 65-207, 4 RR 2d 697 (1965).

5. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations within the 1 mv/m contours together with the availability of other FM services of 1 mv/m or greater intensity in such areas will be considered under the comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

6. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity, and is of the opinion that the applications must be designated for hearing on the issues set forth below.

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether K.C.O.D. Broadcasting Corp. has available to it the additional $25,361 required to construct and operate for 1 year without revenue

and thus demonstrate its financial qualifications.

2. To determine K.C.O.D. Broadcasting Corp.'s efforts to ascertain the programing needs and interests of the area to be served and the manner in which K.C.O.D. Broadcasting Corp. proposes to meet such needs and interests.

3. To determine whether and under what circumstances the facilities proposed by K.C.O.D. Broadcasting Corp. would be available for the presentation of programs by other religious groups.

4. To determine whether and under what circumstances the facilities proposed by Baptist Bible College, Inc., would be available for the presentation of programs by other religious groups.

5. To determine which of the proposals would better serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: August 2, 1967.

Released: August 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-9756; Filed, Aug. 17, 1967; 8:48 a.m.]

[Docket Nos. 17650, 17651; FCC 67-931]

LOCKHEED AIRCRAFT CORP. AND JIMSAIR, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Lockheed Aircraft Corp., Burbank, Calif., Docket No. 17650, File No. 106-A-L-47; Jimsair, Inc., San Diego, Calif., Docket No. 17651, File No. 26-A-L-47; for Aeronautical Advisory Station to serve the San Diego International Airport, San Diego, Calif.

1. The Commission's rules (§ 87.251 (a)) provide that only one aeronautical advisory station may be authorized to operate at a landing area. The above-captioned applications both seek Commission authority to operate an aeronautical advisory station at the San Diego International Airport, San Diego, Calif., and, therefore, are mutually exclusive. Inasmuch as the applications are mutually exclusive, it is necessary to designate the applications for hearing. Except for the issues specified herein each applicant is otherwise qualified.

2. In view of the foregoing: *It is ordered,* That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, that the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators.

(b) To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

3. *It is further ordered,* That to avail themselves of an opportunity to be heard Lockheed Aircraft Corp. and Jimsair, Inc., pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order.

Adopted: August 9, 1967.

Released: August 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-9757; Filed, Aug. 17, 1967; 8:48 a.m.]

[Docket Nos. 17656-17658; FCC 67-950]

MONTANA NETWORK ET AL.

Memorandum Opinion and Order; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: The Montana Network, Lewistown, Mont., Docket No. 17656, File No. BPTTV-2738; Crain-Snyder Television, Inc., Lewistown, Mont., Docket No. 17657, File No. BPTTV-2742; Snyder & Associates, Inc., Lewistown, Mont., Docket No. 17658, File No. BPTTV-2807; for Construction Permits for New VHF Television Broadcast Translator Stations.

1. The Commission has before it for consideration the above-captioned applications, each requesting a construction permit for a new 100-watt VHF television broadcast translator station to operate on assigned Channel 13 in Lewistown, Mont. The Montana Network (BPTTV-2738) proposes to rebroadcast its Station KOOK-TV, Channel 2, Billings, Mont. (CBS, ABC); Crain-Snyder Television, Inc. (BPTTV-2742), proposes to rebroadcast its Station KULR-TV, Channel 8, Billings, Mont. (NBC); and Snyder & Associates (BPTTV-2807) proposes to rebroadcast its Station KRTV, Channel 3, Great Falls, Mont. (NBC). Lewistown is not within the predicted Grade B contour of any television broadcast station. Television service is provided to the community by two community-type UHF translator stations licensed to Central Montana TV Association[1] and a community antenna television (CATV) system operated by Perfect TV, serving approximately 1,900 subscribers.[2]

2. The three applications before us each specifies operation on output Channel 13, which is an assigned and unused channel allocated in the Television Table of Assignments (§ 73.606 of the Commission's rules) with power of 100 watts, pursuant to § 74.702(g) of the Commission's rules. They are, therefore, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Prior to the Commission's authorization of high power translators operating on assigned but unused television broadcast channels,[3] problems of mutual exclusivity between translators were rare and caused little concern to the Commission. This case is the first where we have been required to designate the applications for hearing and we believe that it would be appropriate at this time to state our policy in handling mutually exclusive applications for facilities such as these.

3. Mutually exclusive applications for 100-watt translators on assigned channels present two unique problems. First,

[1] Commissioners Bartley, Loevinger, and Wadsworth absent.

[1] Commissioners Leovinger, Johnson, and Wadsworth absent.

[1] Station K70CK, rebroadcasting Station KFBB-TV, Channel 5, Great Falls, Mont. (ABC, CBS), and Station K74BL, rebroadcasting Station KULR-TV, Channel 8, Billings, Mont. (NBC). Crain-Snyder Television's Station KULR-TV is, therefore, presently carried in Lewistown by translator.

[2] According to the Commission's information, this is a five-channel system carrying Stations KOOK-TV and KRTV by off-the-air pickup and four Salt Lake City, Utah, stations by microwave relay; KCPX-TV, Channel 4 (ABC); KSL-TV, Channel 5 (CBS); and KUTV, Channel 2 (NBC) and KUED, Channel 7, on a shared basis. The Montana Network and Snyder & Associates stations are, therefore, presently available in Lewistown by the CATV system.

[3] Report and order in Docket No. 15858, 1 FCC 2d 15, 5 RR 2d 1702.

it is difficult to frame issues for a hearing which will provide a realistic basis for decision because the Commission's usual comparative criteria have been developed in contests between applicants for stations capable of local program origination. Here, however, there appears to be little basis upon which the proposals may be meaningfully compared. The second problem is that a hearing would tend to defeat the Commission's purposes in authorizing high power translators on assigned channels because the Commission intended to provide a simple and inexpensive means of utilizing unused television channels in order to provide early television service to small markets until such time as regular television broadcast stations could be authorized on the channels. If the early inauguration of new television broadcast service were to be delayed because of a comparative hearing for the translators, this purpose would be largely defeated.

4. The persons most concerned with the early inauguration of the proposed new television translator service are, of course, the residents of the area to be served. In making our comparative evaluation, we will consider such factors as the television service presently available off-the-air (i.e., for which of the competing services is there the greatest need), the extent to which the competing applicants would meet the local tastes, needs and interests of the community, and the extent to which each of the applicants would offer the prospect of eventual operation of a regular television broadcast station on the channel. We will give great weight to the expressed preferences of the local residents and we intend to afford the applicants wide latitude in the evidence which may be offered.

5. We find each of the applicants qualified to construct, own and operate the proposed new television broadcast translator station. The applications are, however, mutually exclusive and the Commission is therefore unable to make the statutory finding that grant of the applications would serve the public interest, convenience, and necessity and is of the opinion that the applications must be designated for hearing in a consolidated proceeding upon the issues set forth below. In view of the unusual nature of this proceeding; i.e., a comparative hearing on television translator applications, and in order to minimize the delay inherent in a comparative proceeding, we direct the examiner and the applicants to explore every possibility for the submission of the case in written form, including the use of a stipulated statement of the facts and of the testimony and other evidence with respect to the issues specified herein.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of the Montana Network, Crain-Snyder Television, Inc., and Snyder & Associates, Inc., are designated for hearing in a consolidated proceeding upon the following issues:

1. To determine, on a comparative basis, which of the proposals would best meet the programing tastes, needs and interests of the community.

2. To determine which of the applicants offers the best prospect for eventual construction and operation of a regular television broadcast station on the channel in Lewistown.

3. To determine which of the proposals would best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That the hearing hereby ordered shall be held at a time and before a hearing examiner to be specified in a subsequent order.

It is further ordered, That this proceeding shall be expedited to the extent possible consistent with requirements of procedural due process.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) off the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: August 9, 1967.

Released: August 15, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-9758; Filed, Aug. 17, 1967; 8:49 a.m.]

[Docket No. 17635; FCC 67M-1385]

T. J. SHRINER

Order Scheduling Hearing

In re application of T. J. Shriner, Bellaire, Tex., Docket No. 17635, File No. BP-12137, for construction permit:

It is ordered, That Jay A. Kyle shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on November 8, 1967, at 10 a.m.; and that a prehearing conference shall be held on October 16, 1967, commencing at 9 a.m.: *And, it is further ordered,* That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: August 11, 1967.

Released: August 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-9759; Filed, Aug. 17, 1967; 8:49 a.m.]

[Docket No. 17614; FCC 67M-1387]

J. H. TOOMEY & SONS, INC.

Order Scheduling Hearing

In the matter of J. H. TOOMEY & SONS, INC., Elkridge, Md.; order to show cause why the license for Radio Station KCF-2672 in the Citizens Radio Service should not be revoked:

It is ordered, That H. Gifford Irion shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on September 20, 1967, at 10 a.m.: *And, it is further ordered,* That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: August 11, 1967.

Released: August 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-9760; Filed, Aug. 17, 1967; 8:49 a.m.]

[Docket No. 17634; FCC 67-914]

VOICE OF THE NEW SOUTH, INC. (WNSL)

Order Designating Application for Hearing on Stated Issues

In re application of Voice of the New South, Inc. (WNSL), Laurel, Miss., has: 1260 kc, 5 kw, day, requests: 1260 kc, 500 w, 5 kw-LS, DA-N, U, Docket No. 17634, File No. BP-16819, for construction permit.

1. The Commission has before it for consideration the above application seeking nighttime operation for Station WNSL.

2. According to the applicant's data, the proposed RSS nighttime limitation contour (21.67 mv/m) would cover only about 60 percent of the city of Laurel. Thus, the proposal does not meet the requirements § 73.30(c) of the Commission's rules. In its latest amendment, the applicant requested a waiver of that section, alleging, inter alia, that the proposal would provide a first primary nighttime service to 2,681 persons residing in an area of 0.73 square mile within the city limits of Laurel (population 27,889) and a first primary nighttime service to rural areas (16.22 square miles) having a population of 875.

3. The Commission has carefully considered the grounds and data submitted in support of the waiver request, but is

[4] Commissioners Loevinger, Johnson, and Wadsworth absent.

unable at this time to conclude that a waiver would serve the public interest, and is of the opinion that the matter should be fully explored in an evidentiary hearing.

4. In view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WNSL and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation of Station WNSL meets the requirements of § 73.30(c) of the Commission's rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: August 2, 1967.

Released: August 14, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-9761; Filed, Aug. 17, 1967; 8:49 a.m.]

[1] Commissioners Bartley, Loevinger, and Wadsworth absent.

FEDERAL MARITIME COMMISSION

ASTRON FORWARDING CO., INC., ET AL.

Independent Ocean Freight Forwarder Licenses and Applicants Therefor

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C. 20573.

Astron Forwarding Company, Inc., 75 Market Street, Post Office Box 161, Oakland, Calif. 94604; Lester A. Dent, president, director; Frank A. Consul, vice president, director and secretary-treasurer; Anthony Consul, director; James Dent, director.

Suarez Shipping Services, Inc., Post Office Box 23, Miami International Airport, Miami, Fla. 33148; Julio Suarez, president; Pedro Ruiz, treasurer-secretary; Robert J. Lewison, vice president.

Far-Go Van Lines, Inc., 2516 Ingleside Road, Norfolk, Va.; Richard Maher, president; Patricia G. Maher, secretary.

NEW APPLICANTS LICENSED

Overseas Expediters, Inc., 26 Stone Street, New York, N.Y. 10004; license No. 1163, issued June 27, 1967.

Luis A. Ayala Parsi, Post Office Box 803, Ponce, P.R. 00731; license No. 1164, issued July 17, 1967.

Melvin Export Shipping Service, (Mrs. Lillian Melvin, d.b.a.), North Miami, Dade County, Fla.; license No. 1165, issued July 25, 1967.

Paulssen & Guice, Ltd., 11 Broadway, New York, N.Y. 10004; license No. 1166, issued Aug. 1, 1967.

A & F Forwarding, Inc., 27 Whitehall Street, New York, N.Y. 10004; license No. 1167, issued Aug. 1, 1967.

GRANDFATHERS LICENSED

H. P. Lambert & Co., 148 State Street, Room 315, Boston, Mass. 02109; license No. 670, issued June 26, 1967.

Cuban American Forwarders Co., Inc., 95 Broad Street, New York, N.Y. 10004; license No. 625, issued July 17, 1967.

Jahrett Shipping, Inc., 95 Broad Street, New York, N.Y. 10004; license No. 545, issued July 13, 1967.

Railway Express Agency, Inc., 219 East 42d Street, New York, N.Y.; license No. 568, issued July 5, 1967.

Notice is hereby given of changes in the following independent ocean freight forwarder licenses.

CHANGE OF NAME

Chatham Service Corp. (Southeastern Maritime Co., d.b.a.) to Chatham Service Corp., 310 East Bay Street, Savannah, Ga. 31402; license No. 1065.

Interstate Auto Shippers, Inc., to General American Shippers, Inc., 205 West 34th Street, New York, N.Y. 10001; license No. 703.

Nettles & Co. (Lee Nettles, d.b.a.) to Nettles & Co., Inc., 327 South La Salle Street, Chicago, Ill. 60604; license No. 1153.

Notice is hereby given of changes in the following applications for independent ocean freight forwarder licenses filed pursuant to section 44, Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Continental Island Freight Forwarders, Inc., Biscayne Terrace Hotel, Suite 208, Miami, Fla. 33132; new applicant, denied May 30, 1967.

Pan African Shipping Corp., 6 State Street, New York, N.Y. 10004; new applicant, withdrawn June 8, 1967.

Hy Turret aka Hyman Turetsky, 121-48 236th Street, Rosedale, N.Y. 11422; new applicant, dismissed June 22, 1967.

Muskegon Forwarding Co., The Mart, Post Office Box 831, Muskegon, Mich. 49443; new applicant, denied Aug. 6, 1967.

Notice is hereby given of the cancellation of the following independent ocean freight forwarder licenses.

Atlantis Shipping Co., Ltd., 85 Broad Street, New York, N.Y.; license No. 357, canceled June 27, 1967.

Wm. A. Hausman Co., Inc., 87 Marion Street Viaduct, Seattle, Wash. 98104; license No. 592, canceled Aug. 8, 1967.

Lansen-Naeve Corp., 11 Broadway, New York, N.Y. 10004; license No. 193, canceled July 29, 1967.

Dated: August 15, 1967.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-9762; Filed, Aug. 17, 1967; 8:49 a.m.]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. D-5]

SECRETARY OF THE TREASURY

Delegation of Authority Regarding Control of Violations of Law

1. *Purpose.* This regulation delegates authority to the Secretary of the Treasury to assist in controlling violations of law at U.S. Treasury locations.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of the Treasury to appoint uniformed guards as special policemen and to make all needful rules and regulations for the protection of Treasury Building and Treasury Annex, Washington, D.C.; Bureau of Engraving and Printing and Bureau of Engraving and Printing Annex, Washington, D.C.; U.S. Mint, Denver, Colo.; U.S. Bullion Depository, Fort Knox, Ky.; U.S. Assay Office, 32 Old Slip, New York, N.Y.; U.S. Mint, 16th and Spring Garden Streets, Philadelphia, Pa.; U.S. Assay Office, 155 Hermann Street, San Francisco, Calif.;

and U.S. Bullion Depository, West Point, N.Y., over which the United States has exclusive or concurrent legislative jurisdiction.

b. The Secretary of the Treasury may redelegate this authority to any officer or employee of the Department of the Treasury.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited Acts, and the policies, procedures, and controls prescribed by the General Services Administration.

Dated: August 11, 1967.

LAWSON B. KNOTT, JR.,
Administrator of General Services.

[F.R. Doc. 67-9727; Filed, Aug. 17, 1967; 8:46 a.m.]

[Federal Property Management Regs.; Temporary Reg. D-6]

SECRETARY OF COMMERCE

Delegation of Authority Regarding Control of Violations of Law

1. *Purpose.* This regulation delegates authority to the Secretary of Commerce to assist in controlling violations of law at the U.S. Merchant Marine Academy, Kings Point, N.Y., and at National Bureau of Standards installations.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of Commerce to appoint uniformed guards as special policemen and to make all needful rules and regulations for the protection of those parcels of property at the U.S. Merchant Marine Academy, Kings Point, N.Y., and at National Bureau of Standards installations which are not protected by General Services Administration guards, and over which the Federal Government has exclusive or concurrent jurisdiction.

b. The Secretary of Commerce may redelegate this authority to any officer or employee of the Department of Commerce.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited Acts, and policies, procedures, and controls prescribed by the General Services Administration.

4. *Effect on other issuances.* The regulation supersedes Delegations of Authority Nos. 266, dated July 13, 1956, and 413, dated May 18, 1962.

Dated: August 15, 1967.

LAWSON B. KNOTT, JR.,
Administrator of General Services.

[F.R. Doc. 67-9738; Filed, Aug. 17, 1967; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

CODITRON CORP.

Order Suspending Trading

AUGUST 14, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $3 par value, of Coditron Corp., New York, N.Y., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period August 14, 1967, through August 23, 1967.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-9744; Filed, Aug. 17, 1967; 8:48 a.m.]

[70-4524]

DELMARVA POWER & LIGHT CO.

Notice of Proposed Issue and Sale of First Mortgage and Collateral Trust Bonds at Competitive Bidding

AUGUST 14, 1967.

Notice is hereby given that Delmarva Power & Light Co. ("Delmarva"), 600 Market Street, Wilmington, Del. 19899, a registered holding company and a public-utility company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Delmarva proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $25 million principal amount of first mortgage and collateral trust bonds, ———% series due September 1, 1997. The interest rate (which shall be a multiple of one-eighth of 1 percent) and the price to Delmarva, exclusive of accrued interest (which shall be not less than 100 percent nor more than 102.75 percent of the principal amount thereof), for the bonds will be determined by the competitive bidding. The bonds will be issued under a mortgage and deed of trust, dated October 1, 1943, between Delmarva and the Chemical Bank New York Trust Co., trustee, as heretofore supplemented and as to be further supplemented by a 34th supplemental indenture to be dated September 1, 1967.

Delmarva will apply the proceeds from the sale of bonds toward the cost of its own construction program and that of its subsidiary companies including the payment of short-term notes due banks issued for construction purposes prior to such sale. The system construction program during 1967 and 1968 is estimated at $73,288,000.

It is represented that the issuance of the bonds is subject to the approval of The Public Service Commission of Delaware and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. A statement of the fees and expenses to be incurred by Delmarva in connection with the sale of the bonds will be supplied by amendment.

Notice is further given that any interested person may, not later than September 5, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-9713; Filed, Aug. 17, 1967; 8:45 a.m.]

[812-2159]

HAMILTON MANAGEMENT CORP.

Notice of Filing of Application for Exemption

AUGUST 14, 1967.

Notice is hereby given that Hamilton Management Corp. ("Applicant"), 777 Grant Street, Denver, Colo. 80217, a Delaware corporation, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting three companies, International Balanced Fund, Inc., International

Growth Fund, Inc., and International Income Fund, Inc. ("the new funds"), of which Applicant is the investment adviser and sole stockholder, from the provisions of sections 10(a), 15(a), 15(c), 30(b)(1), 30(b)(2), 30(d), and 32(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a wholly owned subsidiary of International Telephone and Telegraph Corp., is primarily engaged in the business of rendering investment advice to Hamilton Funds, Inc., a registered diversified open-end management investment company, and of underwriting and distributing the securities of Hamilton Funds, Inc., and Hamilton Fund, a unit investment trust. The new funds were incorporated under the laws of the State of Delaware on May 1, 1967. Each is registered under the Act as a diversified open-end management investment company although none intends to make a public offering of its securities for several years.

Applicant requests that each such new fund be granted the following exemptions to remain in effect with respect to each only so long as each does not make a public offering of its securities and Applicant remains its sole stockholder:

Exemption from section 10(a), insofar as it requires that no more than 60 percent of the members of the Board of Directors of each such new fund be persons who are investment advisers of, affiliated persons of an investment adviser of, or officers or employees of such company;

Exemption from sections 15(a) and 15(c), insofar as they require approval of the investment advisory contract, at least annually, by vote of a majority of the outstanding voting securities of the company or by a majority of the unaffiliated directors of the company;

Exemption from sections 30(b)(1) and 30(b)(2), insofar as they require (1) the filing of information and documents with the Commission on a semiannual or quarterly basis, and (2) the filing with the Commission of copies of every periodic or interim report or similar communication containing financial statements and transmitted to the company's stockholder; and

Exemption from section 32(a) insofar as it requires the selection of an independent public accountant by the unaffiliated directors of the registered company.

Applicant represents that so long as the new funds make no public offering of their securities and so long as they have only one stockholder, there is no public interest to be protected and, consequently, the new funds should be exempt from the above-listed provisions of the Act.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 31, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-9714; Filed, Aug. 17, 1967; 8:45 a.m.]

[File No. 1-4078]

TEL-A-SIGN, INC.

Order Suspending Trading

AUGUST 14, 1967.

The common stock of Tel-A-Sign, Inc., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934, and being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such security on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period August 15, 1967, through August 24, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-9715; Filed, Aug. 17, 1967; 8:45 a.m.]

[70-4521]

WEST TEXAS UTILITIES CO. AND CENTRAL AND SOUTH WEST CORP.

Notice of Proposed Amendment of Articles of Incorporation

AUGUST 14, 1967.

Notice is hereby given that Central and South West Corp. ("Central"), 902 Market Street, Wilmington, Del. 19899, a registered holding company and its electric utility subsidiary company, West Texas Utilities Co. ("West Texas"), 1062 North Third Street, Abilene, Tex. 79604, have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a), 7, 9, 10, and 12(f) of the Act and Rules 20 and 50 of the general rules as applicable to the proposed transactions. All interested persons are referred to the application-declaration which is summarized below, for a complete statement of the proposed transactions.

West Texas proposes to change, by amendment to its Articles of Incorporation, the 2,800,000 authorized shares of its common stock of the par value of $10 each, both issued and unissued, into 2,800,000 shares of common stock of the par value of $15 each and to transfer from earned surplus to the common stock capital account the sum of $12,375,000—the equivalent of $5 for each of the 2,475,000 shares of common stock ($10 par value) now outstanding.

At June 30, 1967, the common stock capital and the earned surplus of Southwestern amounted to $24,750,000 and $23,391,152, respectively. Giving effect to the proposed transfer, common stock capital would be increased to $37,125,000 and earned surplus would be reduced to $11,016,152. The transactions are proposed for the principal purpose of effectuating a permanent capitalization of a portion of the company's earned surplus. Each of the outstanding common shares having a par value of $10 will, after the proposed transactions, constitute a common share having a par value of $15.

The affirmative vote of the holders of at least two-thirds of the outstanding shares of common stock is required to adopt the proposed amendments. Central, owner of all of the common stock of West Texas, proposes to give and execute its consent in writing to the adoption of the proposed amendments to the Articles of Incorporation.

Fees and expenses in connection with the proposed transactions to be paid by West Texas are estimated not to exceed $1,500, including legal fees of $1,000. It is stated that no State commission or

Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 5, 1967, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-9716; Filed, Aug. 17, 1967; 8:45 a.m.]

TARIFF COMMISSION

[APTA-W-16; TC Publication 212]

CERTAIN WORKERS OF EATON YALE & TOWNE'S STAMPING DIVISION PLANT, CLEVELAND, OHIO

Report to Automotive Agreement Adjustment Assistance Board in Adjustment Assistance Case

AUGUST 15, 1967.

The Tariff Commission today reported to the Automotive Agreement Adjustment Assistance Board the results of its investigation No. APTA-W-16, conducted under section 302(e) of the Automotive Products Trade Act of 1965. The Commission's report contains factual information for use by the Board, which determines the eligibility of the workers concerned to apply for adjustment assistance. The workers in this case were employed in the Cleveland, Ohio, Stamping Division plant of Eaton Yale & Towne, Inc.

Only certain sections of the Commission's report can be made public since much of the information it contains was received in confidence. Publication of such information would result in the disclosure of certain operations of individual firms. The sections of the report that can be made public are reproduced on the following pages.

Introduction. In accordance with section 302(e) of the Automotive Products Trade Act of 1965 (79 Stat. 1016), the U.S. Tariff Commission herein reports the results of an investigation (APTA-W-16) concerning the possible dislocation of certain workers engaged in the production of miscellaneous automotive stampings at the Cleveland, Ohio, plant of the Eaton Stamping Division, Eaton Yale & Towne, Inc. The Commission instituted the investigation on June 27, 1967, upon receipt of a request for investigation on June 26, 1967, from the Automotive Assistance Committee of the Automotive Agreement Adjustment Assistance Board. Public notice of the investigation was given in the FEDERAL REGISTER (32 F.R. 9596) on July 1, 1967.

The Automotive Assistance Committee's request for the investigation resulted from a petition for determination of eligibility to apply for adjustment assistance that was filed with the Assistance Board on June 21, 1967, by the International Union, United Automobile Aerospace & Agricultural Implement Workers of America (U.A.W.) and its Local No. 307, on behalf of a group of workers at the Cleveland plant of the Eaton Stamping Division of Eaton Yale & Towne, Inc. Neither the petitioners nor any other party requested a hearing before the Commission, and none was held.

The petition alleged that the transfer of the production of automotive stampings from the Cleveland plant to the Eaton Spring Division plant in Detroit, Mich., resulted in the permanent layoff of 65 workers between April 15, 1967, and May 24, 1967. The petition further alleged that the transfer would not have occurred if the Eaton Spring Division had not moved its flat leaf spring operation from Detroit to Chatham, Ontario, leaving space vacant at the Detroit plant. The petition attributed the aforementioned transfer of production and layoff of 65 employees at the Cleveland plant to the United States-Canadian Trade Agreement Concerning Automotive Products, signed January 16, 1965.

The information reported herein was obtained from a variety of sources, including Eaton Yale & Towne, Inc., the International Union, U.A.W., and its Local 307, the Commission's files, and through fieldwork by members of the Commission's staff.

Investigation No. APTA-W-7: Automotive flat leaf springs. The present investigation (APTA-W-16) is related to an earlier investigation (APTA-W-7) that had been completed by the Commission on March 30, 1967. In investigation No. APTA-W-7, a petition was filed by the U.A.W. with the Automotive Agreement Adjustment Assistance Board alleging that a permanent layoff of workers at the Eaton Yale & Towne Detroit spring plant had resulted from the transfer of the production of automotive flat leaf springs from Detroit to Eaton's newly established plant in Chatham, Ontario.

On March 30, 1967, the Tariff Commission presented its report on APTA-W-7 to the Adjustment Assistance Board.[1] On April 14, 1967, the Board reported its determination that the workers of the leaf spring department at Eaton's Detroit plant, who had become unemployed or underemployed after January 7, 1967, had been dislocated primarily as a result of the United States-Canadian Automotive Products Agreement and were thus eligible to apply for adjustment assistance.[2]

The automotive product involved—miscellaneous metal stampings. The products involved in this investigation are those automotive stampings which were produced at the Eaton Stamping Division plant in Cleveland, the production of which was shifted to the Eaton Spring Division plant in Detroit. These products consist primarily of radiator and fuel tank caps, filler necks, bumper guards, arm rest assemblies, and hubcaps for trucks.

The aforementioned articles are dutiable under item 692.27 of the Tariff Schedules of the United States at 8.5 percent ad valorem unless they are Canadian articles for use as "original motor-vehicle equipment", in which event they are entered duty free under item 692.28.

Eaton Yale & Towne, Inc., and its Eaton Stamping Division. Eaton Yale & Towne, Inc., with headquarters in Cleveland, Ohio, is a large diversified corporation doing business through numerous divisions, subsidiaries, and foreign affiliates. Its net sales in 1966 were valued at $796 million; approximately 50 percent of this total was accounted for by the sale of passenger car products and components for trucks and off-the-highway vehicles. Other important segments of the corporation's business include materials handling and construction equipment, and locks and builder's hardware.

The Eaton Stamping Division of Eaton Yale & Towne, Inc., was a single plant division with its plant and headquarters in Cleveland. The Division was formed as a successor to the Easy-On Cap. Co., whose assets were acquired by Eaton in the early 1930's. The Cleveland plant contains 197,000 square feet of manufacturing space and 35,000 square feet of office space. It is a single-story masonry structure which is about 40 years old.

* * * * *

By direction of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 67-9735; Filed, Aug. 17, 1967; 8:47 a.m.]

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[1] U.S. Tariff Commission, APTA-W-7: Automotive Flat Leaf Springs; Certain Workers of Eaton Yale & Towne Inc., Eaton Spring Division, Detroit, Michigan Plant (March 1967).

[2] Automotive Agreement Adjustment Assistance Board, Summary of Final Determinations and Notice of Certification (April 1967).

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 15, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41102—*Processed clay to Cherokee, Ala., and Yazoo City, Miss.* Filed by Southwestern Freight Bureau, agent (No. B-8998), for interested rail carriers. Rates on processed clay, in carloads, from specified points in Louisiana and Texas, to Cherokee, Ala., and Yazoo City, Miss., and stations taking same rates.

Grounds for relief—Market competition.

Tariff—Supplement 31 to Southwestern Freight Bureau, agent, tariff ICC 4628.

FSA No. 41103—*Petroleum residual fuel oil to Lake, Wis.* Filed by Southwestern Freight Bureau, agent (No. B-9001), for interested rail carriers. Rates on petroleum residual fuel oil, in tank carloads, from points in Kansas, Louisiana, Missouri, Oklahoma, and Texas, to Lake, Wis.

Grounds for relief—Market competition.

Tariff—Supplement 459 to Southwestern Freight Bureau, agent, tariff ICC 4279.

FSA No. 41104—*Soda ash from Saltville, Va.* Filed by O. W. South, Jr., agent (No. A5052), for interested rail carriers. Rates on soda ash (other than modified soda ash), in bulk, in cars or in bulk, in bags, or barrels, in carloads, minimum 100,000 pounds, from Saltville, Va., to Memphis, Tenn.

Grounds for relief—Market competition.

Tariff—Supplement 93 to Southern Freight Association, agent, tariff ICC S-517.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-9749; Filed, Aug. 17, 1967; 8:48 a.m.]

[Notice 24]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 15, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-68887. By order of August 10, 1967, the Transfer Board approved the transfer to Whitney Tank Lines, Inc., Tampa, Fla., of certain operating rights of McKenzie Tank Lines, Inc., Tallahassee, Fla., specifically, a portion of the operating rights in certificate No. MC-112520 (Sub-No. 61), issued March 21, 1963, the entire operating rights in certificate No. MC-112520 (Sub-No. 107), issued March 4, 1966, a portion of the operating rights in certificate No. MC-112520 (Sub-No. 115), issued March 10, 1967, and the entire operating rights in certificate No. MC-112520 (Sub-No. 139), issued November 28, 1966, authorizing the transportation over irregular routes, of phosphoric acid, in bulk, in tank vehicles, from Bonnie, Brewster, and Tampa, Fla., to Mobile, Ala.; phosphate, phosphate products, and phosphate byproducts, in bulk, in tank or hopper vehicles, from points in Polk County, Fla., to points in Hillsboro County, Fla.; phosphate rock, diammonium phosphate, superphosphate, triple-superphosphate, hydrofluosilicic acid, phosphate acid, and phosphatic feed supplements, in bulk, in tank and hopper-type vehicles, from points in Citrus and Marion (Counties) south of the Cross Florida Canal, Pinellas, Hillsborough, Manatee, Polk, Pasco, Hardee, Sarasota, Orange, Hernando, Charlotte, Lee, De Soto, Highlands, Okeechobee, Indian River, Brevard, and Osceola Counties, Fla., to points in Florida, Alabama, and Georgia, as restricted, and superphosphoric acid, in bulk, in tank vehicles, from points in Polk County, Fla., to Fremont, Nebr. Dan R. Schwartz, 1730 American Heritage Life Building, Jacksonville, Fla. 32202, attorney for applicants.

No. MC-FC-69744. By order of August 9, 1967, the Transfer Board approved the transfer to Boward Moving & Storage, Inc., Staunton, Va., of the operating rights of Meadows Transfer, Inc., Harrisonburg, Va., in certificate No. MC-109325, issued August 12, 1959, authorizing the transportation, over irregular routes, of household goods, between Harrisonburg, Va., to points in Virginia within 25 miles of Harrisonburg, on the one hand, and, on the other, points in Virginia, Ohio, North Carolina, Maryland, Pennsylvania, West Virginia, and the District of Columbia. M. Bruce Morgan, 201 Azar Building, Glen Burnie, Md. 21061, attorney for applicants.

No. MC-FC-69759. By order of August 9, 1967, the Transfer Board approved the transfer to Guy E. Wilson, Inc., 156 Porter Place, Rutland, Vt., of the operating rights in permit No. MC-107481 (Sub-No. 1), issued May 10, 1951, to Guy E. Wilson, 156 Porter Place, Rutland, Vt., authorizing the transportation of such merchandise as is dealt in by retail and chain grocery and food business houses, and equipment, materials, and supplies used in the conduct of such business, over irregular routes, from Waterford, N.Y., to all points in Vermont.

No. MC-FC-69830. By order of August 9, 1967, the Transfer Board approved the transfer to Balboa Warehouse Corp., doing business as Pacific Transfer Van & Truck Co., San Diego, Calif., of the operating rights in certificate No. MC-72715, issued May 22, 1942, to R. S. Stowell, doing business as Western Parcel Service, San Diego, Calif., authorizing the transportation of: General commodities, with the usual exceptions, between points in San Diego, Calif. Daniel W. Baker, 405 Montgomery Street, San Francisco, Calif, 94104, attorney for transferee. George Ritner, 411 Broadway, San Diego, Calif. 92101, attorney for transferor.

No. MC-FC-69831. By order of August 9, 1967, the Transfer Board approved the transfer to Dave's Trucking Co., Inc., Port Chester, N.Y., of the operating rights in certificate No. MC-2923, issued June 13, 1960, to David Azorsky and Joseph Wein, doing business as Dave's Trucking Co., Port Chester, N.Y., authorizing the transportation of: General commodities, with the usual exceptions, between specified points in New York, New Jersey, and Connecticut. Charles H. Trayford, 137 East 36th Street, New York, N.Y. 10016, and Paul Archer, Northcourt Building, White Plains, N.Y. 10601, attorneys for applicants.

No. MC-FC-69835. By order of August 9, 1967, the Transfer Board approved the transfer to J. Rollman & Son, Inc., Lititz, Pa., of the operating rights in certificates Nos. MC-17131 and MC-17131 (Sub-No. 1), issued August 22, 1961, and April 6, 1964, respectively, to Luke B. Hollinger, Lancaster, Pa., authorizing the transportation, over irregular routes, of fertilizer and lumber between Bowmansville, Pa., and points within 15 miles of Bowmansville, on the one hand, and, on the other, Baltimore, Md., and cabbage, farm machinery, equipment, and parts thereof, fertilizer, flour, general commodities, with exceptions, hay and straw, lumber, and potatoes from and to various points in Pennsylvania, Maryland, Ohio, New Jersey, Delaware, and the District of Columbia; and over regular routes, fertilizer from Baltimore, Md., to Strasburg, Pa., serving certain intermediate and off-route points. Christian V. Graf, 407 North Front Street, Harrisburg, Pa., attorney for applicants.

No. MC-FC-69842. By order of August 9, 1967, the Transfer Board approved the transfer to Bob Hilmer, doing business as Hilmer Truck Lines, Dysart, Iowa, of the operating rights in permits Nos. MC-126548 (Sub-No. 1) and MC-126548 (Sub-No. 4) issued October 11, 1965, and December 21, 1965, respectively, to Robert R. Reed, Grinnell, Iowa, authorizing the transportation of: Lumber, boards, pallets, and skids, from Belle Plaine, Iowa, to points in Indiana, Ohio, Illinois, and Wisconsin. Kenneth

F. Dudley, Post Office Box 279, Ottumwa, Iowa 52501, representative for applicants.

No. MC–FC–69845. By order of August 9, 1967, the Transfer Board approved the transfer to Ralph Guggenheim, Willseyville, N.Y., of the certificate in No. MC–127301, issued February 23, 1966, to Roy G. Grover, doing business as Grover Trucking, Willseyville, N.Y., authorizing the transportation of: Building materials, from the site of the Wickes Corp., approximately 10 miles west of Endicott, N.Y., to points in Bradford, Lackawanna, Susquehanna, Wayne, and Wyoming Counties, Pa. Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580, representative for applicants.

No. MC–FC–69846. By order of August 9, 1967, the Transfer Board approved the transfer to Service Transfer, Inc., Sitka, Alaska, of the certificate in No. MC–124128 (Sub-No. 1) and MC–124128 (Sub-No. 2), issued March 18, 1965, and July 28, 1965, respectively, to Keith B. Snowden, doing business as Service Transfer, Sitka, Alaska, authorizing the transportation of: General commodities, excluding commodities in bulk and other specified commodities, between points in Alaska south and east of the United States-Canada boundary line north of Haines, Alaska, and between points on Baranof Island, Alaska. N. C. Banfield, 311 Franklin Street, Juneau, Alaska 99801, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-9750; Filed, Aug. 17, 1967; 8:48 a.m.]

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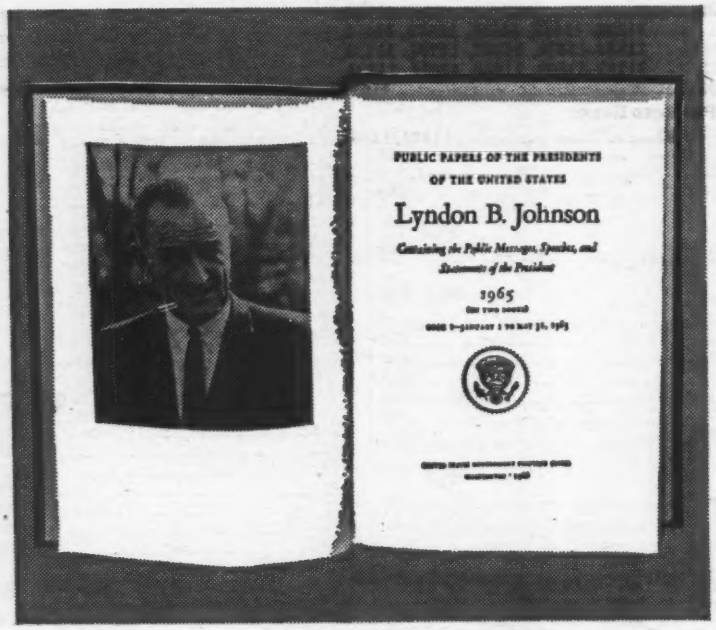

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